

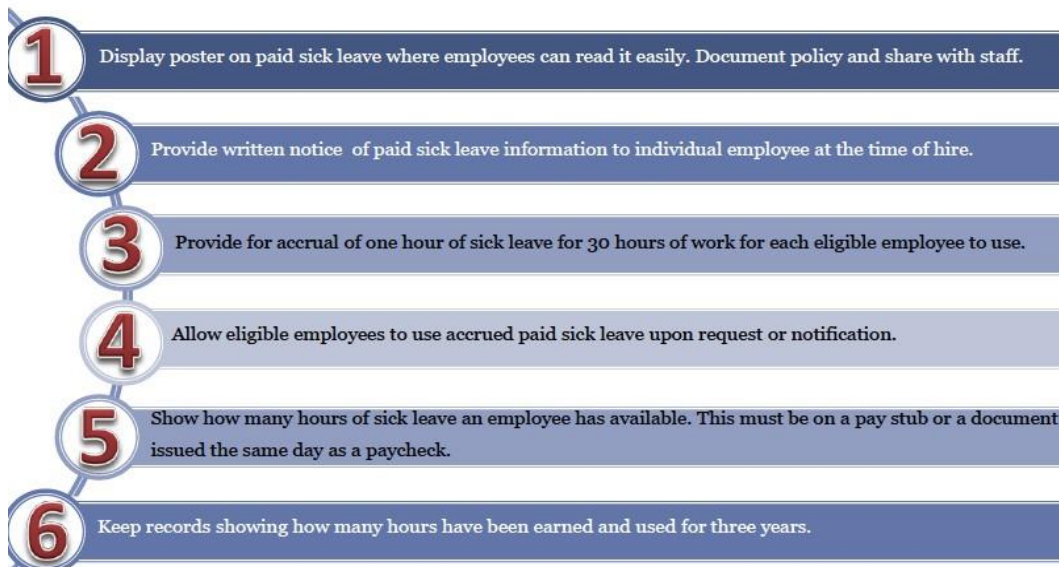


Paid Sick Leave – Healthy Workplace Healthy Families Act

ALL employees who work in California for the same employer for 30 or more days within a year of the commencement of employment are eligible for paid sick leave. Exceptions apply, including under collective bargaining agreements. We recommend employers not require a doctor's note when an employee is using mandatory paid sick leave based on Labor Commissioner guidance. You **may not** count paid sick leave absences against the employee's attendance. The chart below outlines State sick leave requirements and options. Employers should always check to determine whether a more generous **local sick leave ordinance** applies.

| <u>Option 1 - Accrual</u> | <u>Option 2 - Lump Sum</u> | <u>Option 3 - PTO</u> |
|--|---|---|
| Employees accrue sick leave from the commencement of employment at a rate of one hour for every 30 hours worked, up to a maximum of 80 hours or ten days. Exempt employees' paid sick leave accrual will be based on a 40-hour workweek. An employer policy is not required, but highly recommended. | Immediately upon hire, employees are eligible for at least five days or 40 hours of paid sick leave. Thereafter, their balance will reset to five days or 40 hours of sick leave each 12-month period as defined. An employer policy is required for this method. | Combine sick and vacation time under one paid time off policy, as long as it mirrors or exceeds the accrual, carryover and use requirements under state and/or local law. An employer policy is required for PTO. |
| May use an alternative accrual method as long as employee has 24 hours available by 120th day of employment, calendar year or each 12 month period, and at least 40 hours available by the 200th day of employment, calendar year or each 12 month period. | | |
| NOTE: The Labor Commissioner says that "5 days" means the equivalent of the number of hours regularly scheduled multiplied by 5. <i>Example: For an employee regularly scheduled to work five 10-hour days, 5 days would equal 50 hours (not 40).</i> If using Option 2 you must deposit the equivalent of 5 days' hours if the normal workday exceeds 8 hours. | | |
| Stand-Alone Sick Leave Policy: Not payable at separation | | PTO: Payable at separation |
| If an employee is rehired within a year of separation, their accrued unused bank of time off must be reinstated. | | |
| The Company must track accrual & usage for carryover purposes. | The Company must track usage. There is no carryover. | The Company must track accrual & usage for carryover purposes. |
| Usage – does not include: personal time and scheduled vacation. | | Usage – includes: personal time off and scheduled vacation. |
| Carryover: Can be capped at ten days or 80 hours. | Balance is reset to five days or 40 hours annually. Carryover not required. | Carryover: Can be capped at 1-½ times annualized rate of accrual, so long as at least ten days or 80 hours. |
| Payable only for days on which the employee would be scheduled to work | | Employer may offer a cash-out policy |
| Employers may require employees to wait until their 90 th day of employment before utilizing PSL. Paid sick leave (or PTO) will be integrated with California State Disability Insurance (SDI) benefits and/or workers' compensation insurance benefits in such a way that the total sick leave benefits paid by the Company, and those received from SDI or workers' compensation insurance, will not exceed 100 percent of an employees' regular weekly wage based on their regular straight-time hourly rate of pay. | | |

6 Steps to Successful Compliance



Retaliation is Prohibited, Including:

- Denying an employee the right to use paid sick leave
- Discharging
- Threatening to discharge
- Demoting
- Suspending
- Or in any manner discriminating against an employee

There is a rebuttable presumption of unlawful retaliation if the employer acts in a manner described above within 30 days of the employee's request for leave or other protected activity.

An Employee May File a Paid Sick Leave Claim – Against Employers Who....

- Unlawfully withhold payment for use of accrued sick days
- Fail to provide a statement of accrual of sick leave
- Fail to accurately track accrued sick leave
- Require an employee to use a full-day or half-day absence for any use of sick leave. However, an employer may require a minimum of 2 hours of each use of paid sick leave
- Deny payment for sick leave if the employee fails to provide prior notice for an unforeseen illness
- Require the worker requesting sick leave to find a replacement to cover his scheduled shift or assignment
- Deny sick leave due to a failure to provide details.

Administrative Penalties May be Awarded by the Department of Industrial Relations/Labor Commissioner's Office

Employers should check to determine if any local ordinances apply to their employees. Employers will have to give whichever provision or benefit is more generous to the employee.