

Allegheny County, Pennsylvania Implements New Paid Sick Leave Requirements

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On September 14, 2021, the Allegheny County Council passed the Allegheny County Sick Leave Ordinance (“the Ordinance”). The new paid leave rules will require covered employers to allow up to 40 hours per year of paid sick leave to eligible employees. The Ordinance was effective as of December 15, 2021, with fines for violations suspended until December 15, 2022.

■ Who is Covered by the Ordinance?

Covered employers are defined broadly to include any entity (public or private) situated or doing business within Allegheny County which employs at least one or more compensated employees. Only employers with 26 or more employees (performing services anywhere) are required to provide paid leave. In making this determination, all employees, excluding the owner(s) should be counted. Part-time employees should be counted as one employee rather than as a fraction of an employee.

■ What Individuals are Eligible for Paid Leave?

The Ordinance applies to all part-time and full-time employees performing compensated services for the employer within Allegheny County. Independent contractors, state and federal employees and seasonal employees are not eligible.

■ How are Leave Benefits Accrued?

Beginning December 15, 2021, current employees must be permitted to accrue at least one (1) hour of paid sick leave for every 35 hours worked within Allegheny County, up to a maximum of 40 hours of paid sick leave in a calendar year. Employees hired after December 15, 2021, will begin accruing leave as of their date of hire. Employees must be allowed to carry over accrued, unused paid sick leave from one calendar year to the next calendar year; however, employers are not required to permit carryover where the employer front-loads 40 hours of paid sick leave at the beginning of each calendar year.

■ When Can Paid Sick Leave be Used?

Covered employees may use accrued sick leave beginning on the 90th calendar day following their date of employment. Accrued sick leave may be used for any of the following reasons:

- An employee's own mental or physical illness, injury, or health condition, including diagnostic, treatment, and preventive medical care for the illness, injury, or health condition;
- Care of a family member with a mental or physical illness, injury, or health condition including diagnostic, treatment, and preventive medical care for the illness, injury, or health condition;
- Closure of the employee's place of business by order of a public official due to a public health emergency;
- An employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; and
- Care for a family member when it has been determined by the health authorities having jurisdiction over or by a health care provider that the family member's presence in the community would jeopardize the health of others because of the family member's exposure to a communicable disease, whether or not the family member has actually contracted the communicable disease.

■ How is Paid Leave Requested?

Covered employees must request paid sick leave from their employers.

- Where possible, the request must include the anticipated duration of the leave.
- An employer may require reasonable advance notice (not to exceed 7 days) of a leave request where the need for the use of paid leave can be foreseen by the employee (for example, a previously scheduled appointment with a health care provider). Where 7-days advance notice is not possible, employees must give notice as soon as possible.

- Where the need for sick leave is foreseeable, the employee must make a reasonable effort to schedule the use of such leave in a manner not unduly disruptive to the employer's operations.
- For paid leave lasting 3 or more days, an employer may require reasonable documentation to prove that the paid leave was used for a permissible purpose.

■ Can an Employer Substitute Other Paid Leave to Meet the Ordinance's Requirements?

Yes. An employer that provides covered employees with other forms of paid sick leave, such as PTO, that meets the requirements of the Ordinance (including accruals, reasons for leave, and other conditions) will not be required to provide additional paid sick leave.

■ Are Employers Required to Distribute a Notice to Covered Employees?

Yes. Employers must give written notice (in English, Spanish, and any other primary language used in the workplace) to covered employees. This notice must include:

- the employees' entitlement to leave;
- the amount of paid sick leave;
- the terms of its use;
- the prohibition against retaliation for the use of paid leave; and
- that each employee has a right to file a complaint for any violation or denial of sick leave by an employer.

This notice should be displayed in a conspicuous and accessible location at the worksite or, if working remotely, the notice may be provided on an individualized basis in the employees' primary language in a physical or electronic format that is reasonably conspicuous and accessible.

A [sample](#) notice can be found on the website.

■ Are Employers Required to Distribute a Notice to Covered Employees?

Employers must keep records documenting the number of hours worked and paid sick time taken by employees for two (2) years.

Employers should choose a reasonable system for providing notification of accrued sick leave. Suggested methods include making accrued leave available on pay stubs or in an online system that is accessible by covered employees.

Failure to adhere to the recordkeeping requirements will result in a presumption that the employer has violated the Ordinance (absent clear and convincing evidence to the contrary).

■ Employer Next Steps

Covered employers should:

- evaluate any existing paid sick leave to determine whether it meets the minimum requirements under the Ordinance and, if it does not, work to amend their existing leave policies to align with these new requirements.
- begin documenting hours worked and paid sick leave earned back to December 15, 2021.
- provide any paid sick time earned and requested.
- post the notice in a conspicuous and accessible location.