Paid Sick Leave Policy Template

As of July 1, 2015, California law provides for mandatory paid sick leave under the Healthy Workplaces, Healthy Families Act (the "Act"). This paid sick leave policy is intended to comply with the requirements of the Act.

Employees cannot be discriminated or retaliated against for requesting or using accrued paid sick time.

If you have any questions about paid sick leave, please contact the [e.g., HR manager, other company official].

Eligible Employees

Beginning July 1, 2015, all employees who have worked in California for 30 or more days within a year from the start of their employment will be entitled to paid sick time.

However, employees are not eligible to take paid sick time until they have worked for the Company for 90 days from their date of hire.

Sick Pay Amount

Eligible employees will receive sick leave as follows:

Option 1: Accrual Rate

Eligible employees earn sick leave at the rate of _______.

- Option A - Statutory Rate: one hour of paid sick time for every 30 hours worked.
- Option B - Employer Policy: [e.g., 3] hour(s) of paid sick time per [e.g., hours worked, week, pay period]. At a minimum, employees will earn at least three days or 24 hours of paid sick time every 12 months.

You will need to meet the 90 day employment requirement before taking any leave.

Exempt employees are presumed to work 40 hours per workweek for purposes of sick time accrual. If their normal workweek is less than 40 hours, accrual will be based on their normal workweek.

The Company does not pay employees for unused paid sick leave. Employees who are rehired with one year of separation from employment may be eligible for reinstatement of previously accrued paid sick time.

Option 1.1: Cap on Accrual

Employees may earn a maximum of [six days or 48 hours/ Can insert a higher cap but has to be at least six days or 48 hours] paid sick time. After an employee has reached this maximum amount, no additional paid sick time will be earned until some or all of the employee's accrued paid sick time is used.

Option 1.2: Limit on Amount of Paid Sick Leave That Can Be Taken Each Year

The maximum amount of paid sick time an employee is allowed to use in each year of employment is three days or 24 hours, regardless of how much paid sick time the employee has earned.
Option 2: Lump Sum

**Employees hired on or before July 1, 2015:**

On July 1, 2015, [Company Name] will provide eligible employees with three days or 24 hours of paid sick time. The full amount will be placed into your leave bank at this time. You will need to meet the 90 day employment requirement before taking any leave.

*Unused paid sick time will not carry over from year to year. However, [Company Name] will place three days or 24 hours of paid sick time into your leave bank on July 1 of each year. Employees will be able to access all three days or 24 hours of paid sick time at the beginning of each 12-month period.*

**Employees hired after July 1, 2015:**

[Company Name] will provide eligible employees with three days or 24 hours of paid sick time on their first day of employment with [Company Name]. You will need to meet the 90 day employment requirement before taking any leave.

*Unused paid sick time will not carry over from year to year. However, [Company Name] will place three days or 24 hours of paid sick time into your leave bank each year on your anniversary date. Employees will be able to access all three days or 24 hours of paid sick time at the beginning of each 12-month period.*

The Company does not pay employees for unused paid sick time.

### Qualifying Reasons for Paid Sick Leave

Paid sick time can be used for the following reasons:

- Diagnosis, care or treatment of an existing health condition for an employee or covered family member, as defined below.
- Preventive care for an employee or an employee's covered family member.
- For certain, specified purposes when the employee is a victim of domestic violence, sexual assault or stalking.

For purposes of paid sick leave, a covered family member includes:

- A child defined as a biological, foster or adopted child; a stepchild; or a legal ward, regardless of the age or dependency status of the child. A "child" also may be someone for whom you have accepted the duties and responsibilities of raising, even if he or she is not your legal child.
- A "parent" defined as a biological, foster or adoptive parent; a stepparent; or a legal guardian of an employee or the employee's spouse or registered domestic partner. A parent may also be someone who accepted the duties and responsibilities of raising you when you were a minor child, even if he or she is not your legal parent.
- A spouse.
- A registered domestic partner.
- A grandparent.
- A grandchild.
- A sibling.
Use of Paid Sick Leave

If the need for paid sick leave is foreseeable, employees shall provide advance oral or written notification to the [e.g., supervisor, human resources manager]. If the need for paid sick leave is not foreseeable, employees shall provide notice to the [e.g., supervisor, human resources manager] as soon as practicable.

An employee’s use of paid sick time may run concurrently with other leaves under local, state or federal law.

Option 3: Incremental Use

Paid sick leave can be used in [e.g., 1 hour, 2 hours. Time increment cannot be greater than 2 hours] hour increments.

Option 4: Paid Sick Leave and Workers’ Compensation Benefits

Paid sick leave is a benefit that also covers absences for work-related illness or injury. Employees who have a work-related illness or injury are covered by workers’ compensation insurance. However, workers’ compensation benefits usually do not cover absences for medical treatment. When you report a work-related illness or injury, you will be sent for medical treatment, if treatment is necessary. You will be paid your regular wages for the time you spend seeking initial medical treatment.

Any further medical treatment will be under the direction of the health care provider. Any absences from work for follow-up treatment, physical therapy or other prescribed appointments will not be paid as time worked. If you have accrued and unused paid sick leave, the additional absences from work will be paid with the use of paid sick leave.

If you do not have accrued, paid sick leave, or if you have used all of your sick leave, you may choose to substitute vacation/paid time off for further absences from work, related to your illness or injury.
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About This Policy

Until 2015, sick leave was an optional employer provider benefit. That all changed with the enactment of the Healthy Workplaces, Healthy Families Act of 2014 (“the Act”) — an important piece of legislation that mandates paid sick leave for all employees working in California.

The Healthy Workplaces, Healthy Families Act is a complex law with many subtleties. Employers with specific questions about the application of this law to their particular workforce should consult legal counsel.

Employers must begin providing the paid sick leave benefit to eligible employees beginning July 1, 2015. All employees who have worked in California for 30 or more days within a year from the commencement of employment will be entitled to paid sick leave with only limited exceptions. Part time, exempt and nonexempt employees, temporary and seasonal employees are all covered under the Act.

A paid sick leave policy is highly recommended to demonstrate your company's compliance with the Act. Moreover, if you wish to provide paid sick leave, but you don't want to use the statutorily mandated accrual method of one hour for every 30 hours worked, you will need to have a written policy.

For instance, you can provide more sick leave, but not less, and you may have an existing policy that already provides generous sick leave. Or you may want to provide paid sick leave in a lump-sum at the beginning of each year. If you choose either of these approaches, the law requires you to have a clear paid sick leave policy that you communicate to employees.

A written paid sick leave policy allows you to:

- Provide notice to employees regarding the Healthy Workplaces, Healthy Families Act, eligibility requirement, and permissible usage.
- Choose from different options in order to handle how sick leave is earned by employees (accrual vs. lump-sum).
- Cap the amount of leave an employee can accrue at six days or 48 hours (or a more generous cap at your discretion).
- Limit the amount of paid sick leave an employee can use in any one year at three days or 24 hours.

Employers do not have to cash out any unused sick time or pay out for unused sick time when the employee leaves employment. However, if you use a PTO policy, you will be required to cash out unused time at the time of termination. PTO is treated as wages.

How Much Sick Pay Must Be Provided?

The amount of sick leave an employee can earn and/or carry-over under the Act will vary depending on how the employer decides to handle the provision of leave. The Act provides employers with different options to satisfy its requirements. There are two basic approaches: accrual of sick leave at a specific rate or providing a lump-sum of sick leave at the beginning of each year.

You can choose different methods/options for different classifications of employees. This is only a sample policy. For instance, you can modify this sample policy to use the statutory accrual method for your part-time employees and the lump sum method for full-time employees or vice versa.
Accrual Rate Method

Employers can use either the statutory mandated accrual method for paid sick leave or their existing accrual rate, as long as it meets certain conditions.

Statutory Rate Option

Under the statutory mandated accrual rate:

- Eligible employees earn **one hour of sick pay for every thirty hours worked**. Eligible employees will begin to accrue on July 1, 2015. If hired after July 1, an eligible employee will begin to accrue on the employee’s first day of work.
- Cap on accrual: Employers can choose to cap the employee’s total accrued amount at 48 hours or six days. **If you do not cap the total accrual, employees will carry over accrued sick leave from year to year with no limit.** You can choose a more generous cap if desired, but it cannot be less than 48 hours or six days.

If an employer does not cap the accrual by policy, a full time employee (40 hours a week with no overtime) could potentially accrue over 69 hours of paid sick leave per year, and be allowed to carry that to the next year. This is over eight days a year if the employee works a 40 hour workweek.

Employer Policy Option

If your organization already has a paid sick leave policy in place, you have the flexibility to use your existing accrual rate as long as employees earn at least three days or 24 hours each year of employment, calendar year or on a 12-month basis.¹

For instance, your company policy may have accrual on a pay period basis, instead of hours worked. An employer with a paid sick leave policy in place can use its existing accrual rate so long as the ultimate amount accrued each year is three days or 24 hours.

Cap on Accrual

Again, unless your organization wants to allow an employee to accrue unlimited paid sick leave, you should select the option to place a cap on accrual and communicate that cap to employees. Employers can choose to cap the employee’s total accrued amount at 48 hours or six days or use a more generous cap. However, any cap must be in writing and communicated to employees.

Limit on Amount of Paid Sick Leave That Can Be Taken Each Year

Regardless of how many days an employee accrues, an employer can limit the amount of paid sick leave an employee can actually take to three days or 24 hours per year. This limitation applies even when an employee, under the statutory accrual method, could have accrued six days or 48 hours of paid sick leave (or even more if the employer did not cap accrual). Again, any limitation on how many days an employee can use each year must be in writing and communicated to employees.

Lump Sum Method

The second option available allows the employer to avoid the accrual and carry-over provisions by having a policy that uses a "lump-sum method." Here, the employer grants the full amount of leave (three days or 24 hours) at the beginning of each year. This method allows an employer to avoid tracking accrual and carry-over, and is less administratively burdensome. In this lump-sum situation, an employee will not be able to carry over unused sick days, but will get three new sick days/or 24 hours at the beginning of the following year.

¹ Labor Code section 246(e)(2)
The following specific requirements must be satisfied:

- The paid sick days must be offered on July 1 (or at the time of hire if hired after July 1) and then every 12 months thereafter.
- The employee must receive a minimum of twenty four hours or three days.
- The employer must put all the paid sick leave into the employee's leave bank at once.

For eligible employees hired on or before July 1, you will need to put three days or 24 hours of paid sick time in their leave bank on July 1, 2015. The following July 1, any unused paid sick time will expire but another full three days or 24 hours will be placed into the employee's leave bank. This same process will occur every July 1.

For eligible employees hired after July 1, 2015, you will put the three days or 24 hours of paid sick time in their leave bank on the first day of employment, and then every anniversary date. Again, there is no yearly carryover.

Employees still need to meet the 90 day requirement before they can begin using paid sick time.

Usage

Employees cannot use or take sick leave until the 90th day of employment, after which day the employee may use paid sick days as they are accrued.

Employees must be allowed to use paid sick leave for any of the qualifying reasons listed in the policy. Family member has a broad definition under the Act.

For more information on time off for victims of domestic violence, sexual assault or stalking, CalChamber’s Employee Handbook Creator contains two separate policies: Domestic Violence Sexual Assault and stalking Leave and Accommodation (all employers) and Domestic Violence, Sexual Assault, and Stalking Leave for Treatment (25 or more employees).

Employers must allow employees to use accrued paid sick time upon the employee's oral or written request. An employee may determine when and how much paid sick leave he/she needs to use, but an employer can set a “reasonable minimum increment” of time for using paid sick leave — not to exceed two hours. For example, you cannot tell an employee that he/she needs to take a half-day off for a brief morning doctor’s appointment.

Employers cannot deny employees the right to use paid sick leave and cannot discriminate or retaliate against employees for exercising their right to use accrued sick days. The provisions prohibiting discrimination and retaliation are effective January 1, 2015.

Some cities have enacted sick leave laws through local ordinance. For example, San Francisco has had a mandatory paid sick leave law since 2007. Review laws where employees are located or travel for business. Whichever law, or portion of the law, provides the most generous rights or protections to the employee will apply.

For a complete discussion of sick leave, including the new mandatory paid sick leave law, see the California Labor Law Digest, a CalChamber publication. A free white paper, “The Who, What, When and How of Mandatory Paid Sick leave in California,” is also available on HRCalifornia.com.