

State of California Healthy Workplaces/Healthy Families Act as Amended Effective January 01, 2024 Frequently Asked Questions (FAQ)

How Much Paid Sick Leave Am I entitled to Per Year?

1. How much paid sick leave am I entitled to take and be paid for?

In general terms, starting on January 1, 2024, the law requires employers to provide and allow employees to use at least 40 hours or five days of paid sick leave per year (whichever is greater). Before January 1, 2024, an employer could limit an employee's use to 24 hours or three days during a year.

How employers provide this leave depends on what kind of plan your employer chooses to offer in order to comply with the paid sick leave law. The County chooses to provide the paid sick leave using the upfront method.

Eligible employees will be credited with 60 hours of paid sick leave upon their 90th day of employment with the County and on January 1st of each calendar year thereafter. However, employees may only use 40 hours or five (5) days of paid sick leave per calendar year, depending on their normal workday.

2. What does 40 hours or five days mean?

Starting on January 1, 2024, an employer must allow an employee to use at least five days or 40 hours, whichever is greater. Therefore, for example, if an employee works 10-hour days, the employee will be entitled to use at a minimum 50 hours of paid sick leave.

Alternatively, if an employee works only 6 hours a day and takes five days of paid sick leave, for a total of 30 hours, the employee will still have 10 hours remaining.

3. What if a local ordinance requires an employer to provide more paid sick leave than state law?

The employer must provide the paid sick leave required by the local ordinance if it is higher than the requirements of state law.

In general, if employees are subject to local sick leave ordinances, the employer must comply with both the local and California laws, which may differ in some respects. The employer must provide the provision or benefit that is most generous to the employee.

The only exception to this general rule is that as of January 1, 2024, local ordinances cannot contradict the state paid sick leave law requirements regarding the lending of paid sick leave, paystub statements, calculation of paid sick leave, providing notice if the leave is foreseeable, timing of payment of paid

sick leave, and whether payment of sick leave is required upon termination. If a local ordinance contradicts the state law on these specific topics, the state law prevails over (preempts) the local law.

Which employees are eligible for paid sick leave

4. Does paid sick leave apply to all employees who work in California?

All employees who work at least 30 days for the same employer within a year in California, including part-time, per diem, in-home supportive services (IHSS) providers, and temporary employees, are covered by this law with some narrow exceptions.

5. What if I am employed by a staffing agency?

Employees of a staffing agency are covered by the paid sick leave law. Therefore, whoever is the employer or joint employer is required to provide paid sick leave to qualifying employees.

6. Which employees are exempt or partially exempt from the paid sick leave law?

Employees exempt from the paid sick leave law include:

- Individuals employed by an air carrier as a flight deck or cabin crew member, if they receive compensated time off at least equivalent to the requirements of the paid sick leave law.
- Retired annuitants working for governmental entities.
- Employees of railroads.
- Employees in the construction industry covered by a collective bargaining agreement with specified provisions.

Employees partially exempt from paid sick leave include employees outside the construction industry covered by a collective bargaining agreement (CBA) with specified provisions. However, these workers are still entitled to some paid sick leave under their CBA. In addition, as of January 1, 2024, these employees must be allowed to take sick leave for all the purposes specified in the paid sick leave law and cannot be required to find a replacement as a condition for taking paid sick leave. These employees are also protected by the law's anti-retaliation provisions.

7. If I am not exempt from paid sick leave, when do I qualify for paid sick leave?

To qualify for sick leave, an employee must:

- Work for the same employer for at least 30 days within a year in California, and
- Satisfy a 90-day employment period before taking any sick leave.

8. Can my employer provide or advance paid sick leave to me prior to my accrual of sufficient paid leave time or prior to meeting the 90-day employment requirement?

Yes. An employer may choose to advance sick leave to an employee before it is accrued, but there is no requirement for an employer to do so under this law.

9. What happens to the credited paid sick leave hours received as a temporary or per-diem employee if I transfer into a Regular status classification covered by a collective bargaining agreement?

The paid sick leave credited to employees who were eligible under the Act will be forfeited upon transferring into a Regular classification covered by a collective bargaining agreement. While working in a Regular classification represented by a collective bargaining agreement, the employee will begin to accrue sick leave as stated in the governing MOU.

10. What happens to the sick leave hours I accrued as a Regular employee covered by a collective bargaining agreement if I transfer into a temporary or per-diem classification covered by the Act?

The accrued sick leave earned as a Regular employee will be forfeited. Upon transferring and becoming eligible for paid sick leave under the Act, you will be credited with the appropriate number of sick leave hours as stated in the County of Riverside Healthy Families, Healthy Workplaces Policy (Policy C-36).

11. What happens if I am a seasonal employee and I only work 60 days one year but return to the same employer within one year and work another 60 days?

The paid sick leave law requires that your accrued and unused sick leave be restored to you if you return to the same employer within 12 months from the previous separation.

12. What happens if I return to work for the same employer after more than one year?

The paid sick leave law does not require that your accrued sick leave be restored to you.

How an employer can provide paid sick leave

13. What options do employers have to provide paid sick leave?

Employers may choose to have an “*accrual*” policy or an “*up front*” policy. The County chooses to provide the paid sick leave using the upfront method.

14. What is an up-front policy for providing paid sick leave?

An *up-front* policy makes the full amount of sick leave for the year available immediately at the beginning of a year-long period, except for initial hires where 3 days or 24 hours must be available for use by the 120th calendar day of employment and 5 days or 40 hours must be available for use by the 200th calendar day of employment. The employer must provide at least 40 hours or five days of paid sick leave per year and the full amount of this leave must be available for the employee's use from the beginning of each year of employment, calendar year, or 12-month period.

15. How is the 12-month period for providing annual paid sick leave measured?

The employer determines how the year will be calculated, whether it tracks a typical calendar year, fiscal year, or other 12-month period. The County's measurement period is calendar year.

16. Are other types of plans allowed?

Some employers already have paid time off or sick leave policies that meet or exceed these requirements. For employees who are covered by those existing plans, the amount of sick leave you are entitled to take will not change.

Some plans existing prior to January 1, 2015 are also "grandfathered" in. The "grandfather" clause allows employers with paid sick leave policies or paid time off policies that were in existence prior to January 1, 2015, to maintain those policies and be deemed in compliance as long as they meet the following requirements:

- The accrual provides no less than one day or 8 hours of accrued paid sick leave or paid time off within three months of employment per year, and
- The employee was eligible to earn at least five days or 40 hours of paid sick leave or paid time off within 6 months of employment.

The paid sick leave law mandates how the paid sick days of a grandfathered plan must be paid. The law, however, does not address in any way, nor impact, how employers must compensate employees under existing paid time off plans for time that is taken off for purposes **other than paid sick leave**, for example, for time that is taken as vacation, or for personal holidays, etc.

17. What happens when an employer has its own Paid Time Off (PTO) plan?

The paid sick leave law establishes minimum requirements for paid sick leave, but an employer may provide sick leave through its own existing sick leave or paid time off plan or establish different plans for different categories of workers. Each plan must satisfy the accrual, carryover, and use requirements of the paid sick leave law. In general terms, the minimum requirements under the paid sick leave law are that an employer must provide at least 40 hours or five days of paid sick leave per year. A paid time off (PTO) plan that employees may use for the same purposes of paid sick leave, and that complies with all

applicable minimum requirements of the paid sick leave law, may continue to be used.

In general terms, the paid sick leave law provides that, employers who adopt an accrual plan for paid sick leave, employees must accrue at least 1 hour of paid sick leave for each 30 hours of work. An employer may use a different accrual method, as long as the accrual is on a regular basis and results in the employee having no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment, or each calendar year, or in each 12-month period and no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment, or each calendar year, or in each 12-month period.

Sick leave or annual leave provided to governmental employees pursuant to either certain Government Code provisions or a memorandum of understanding meet the accrual requirements.

18. My employer provides paid time off which I can use for vacation or illness. Will my employer have to provide additional sick leave?

No, as long as your employer provides the minimum of at least 40 hours or five days per year of paid leave that can be used for health care and that meets other requirements in the law.

Taking paid sick leave

19. What can I use sick leave for?

You can take paid sick leave for yourself or a family member, for preventive care or diagnosis, care or treatment of an existing health condition, or for specified purposes if you are a victim of domestic violence, sexual assault or stalking.

- Family members include the employee's parent, child, spouse, registered domestic partner, grandparent, grandchild, sibling, or designated person.
- Preventive care would include annual physicals or flu shots.

The employee may decide how much paid sick leave he or she wants to use (for example, whether you want to take an entire day, or only part of a day). Your employer can require you to take a minimum of at least two hours of paid sick leave at a time, but otherwise the determination of how much time is needed is left to the employee.

20. Do I have to notify my employer before taking sick leave?

The employee must notify the employer in advance if the sick leave is planned, as may be the case with scheduled doctors' visits. If the need is unforeseeable, the employee need only give notice as soon as practical, as may occur in the case of unanticipated illness or a medical emergency.

21. Can an employer require certification from a health care provider before allowing an employee to take paid sick leave when the request is for a qualifying reason?

Generally, no. An employer may not deny an employee paid sick leave based solely on a lack of certification from a health care provider. An employee is entitled to take paid sick leave immediately upon the covered employee's oral or written request. The leave is not conditioned on medical certification.

Although an employer cannot deny paid sick leave solely for lack of a medical certification, it may be reasonable in certain circumstances to ask for documentation before paying the sick leave when the employer has information indicating that the employee is not requesting paid sick leave for a valid purpose. In any such instance, the reasonableness of the parties' actions will inform the outcome of the claim.

22. If an employee has a three-hour medical appointment, can the employer require the employee to take an entire day of paid sick leave?

No. An employee may determine how much paid sick leave they need to use.

An employer can set a reasonable minimum number of hours for each time an employee takes paid sick leave, not to exceed two hours.

23. Can my employer discipline me for taking a paid sick day or for using paid sick leave for part of a day to go to a doctor's appointment?

In general, no, an employer may **not** discipline an employee for using accrued paid sick leave. Depending on the circumstances, however, the issue may be more complex and may require more analysis.

The paid sick leave law specifically says the following:

An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

Payment and tracking of earned and taken leave

24. When I take paid sick leave, will I get paid as I normally do for the applicable pay period?

The paid sick leave law requires that an employer provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken. This does not prevent an employer from making the adjustment in the pay for the same payroll period in which the leave was

taken, but it permits an employer to delay the adjustment until the next payroll. For example, if you did not clock in for a shift and therefore were not paid for it but utilized your paid sick leave, your employer is required to pay you not later than the following pay period and account for it in the wage stub or separate itemized wage statement for that following regular pay period.

25. How much will I get paid?

It depends on whether you are an “exempt” or “non-exempt” employee. For non-exempt employees, you will be paid your regular or normal non-overtime hourly rate for the amount of time that you took as paid sick leave. For example, if you took two hours of paid sick leave to attend a doctor’s appointment, you will be paid for those two hours at the same non-overtime hourly rate you would have earned if you had been working.

For exempt employees, paid sick leave is calculated in the same manner the employer calculates wages for other forms of paid leave time (for example, vacation pay, paid time off).

26. How will I know how much sick leave I have accrued?

Employers must show how many days of sick leave you have available on your pay stub, or on a document issued the same day as your paycheck. The number of paid sick leave hours will be listed on your bi-weekly pay warrant.

27. Does my employer have to document the reason I use paid sick leave?

The law states that an employer is not obligated to inquire into, or record, the purposes for which an employee uses paid sick leave or paid time off.

28. What happens to unused sick leave at the end of the year?

Any unused sick leave hours will be forfeited. The County is not required to carry over unused sick leave when using the up-front method of providing sick leave.

29. What happens to unused sick leave upon separation from employment?

Unused sick leave upon separation from employment is forfeited. The Act does not require the County to pay temporary or per-diem employees for unused sick leave upon separation from employment. However, if an eligible employee is rehired within a year of separation of employment, the full amount of the remaining unused sick leave at time of separation must be reinstated and made available immediately for use if the employee is rehired into an eligible classification.

Disclaimer: This Frequently Asked Question (FAQ) document is only a guide to provide eligible employees with information pertaining to the Healthy Workplaces, Healthy Families Act of 2014 (“Act”) while employed with the County of Riverside. The FAQ does not replace any provisions of the Act. Should there be any discrepancy between this FAQ and the Act, all provisions of the Act shall prevail.