



Jersey City Employers – Get Ready to Implement Paid Sick Time Policies

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Beginning on January 24, 2014, all private employers in Jersey City must make sick time available to their employees, including part-time and temporary employees who work at least 80 hours in a calendar year. The following summarizes the answers to the most commonly asked questions we have received regarding the Ordinance.

How Much Sick Time Must I Provide To My Employees under the Ordinance?

Employers with 10 or more employees must provide up to 40 hours of *paid* sick time each year to their employees, including part-time and temporary employees who work at least 80 hours in a year. Employers with fewer than 10 employees must provide *unpaid* sick time to their employees, including part-time and temporary employees who work at least 80 hours in a year.

At what Rate does an Employee Accrue Sick Time?

Under the Ordinance, employees accrue one hour of sick time for every 30 hours worked beginning on the first day of employment. However, employees may not use their sick time until after completing 90 days of employment. Beginning on the 91st day of employment, employees may use only the sick time they have accrued; however an employer has the discretion to allow employees to use sick time prior to accrual.

When Can My Employees Start Using Accrued Sick Time?

An employee who has already worked for the employer for at least 90 days starts accruing sick time on January 24. Upon an employee's oral request, which must be made to the employer "as soon as practicable," an employee may use accrued sick time for one of the following reasons: the employee's health care, the care of a family member, the closure of the employee's place of business due to a public health emergency, or to care for the employee's child whose school is closed due to a public health emergency. Sick time may be used in hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time, whichever is smaller. Employers may require reasonable documentation from the employee only for a sick time absence of more than 3 consecutive days.

Employers may not interfere with, restrain or deny any right protected under the Ordinance, and may not retaliate against any employee who attempts to exercise rights under the Ordinance. Use of sick time may not be considered as an absence, lateness or leaving early for purposes of discipline or any other adverse action. An employer may not require an employee using sick time to find a replacement worker to cover his or her shift.



Do I Have to Pay Out or Carry Over Accrued, Unused Sick Time?

Employers must carry over up to 40 hours of accrued but unused sick time to the next calendar year. Employees may use no more than 40 hours of sick time in any calendar year, regardless of how much carryover they have. For example, an employee who accrues 40 hours of sick time in 2014 but uses only 10 hours in 2014 can carry over the remaining 30 hours into 2015. If in 2015 the same employee accrues another 40 hours of paid sick time, the employee still can use at most 40 hours of paid sick time in 2015. If the same employee uses only 10 hours of sick time in 2015, he or she can carry over only 40 hours to the next year. The balance of the accruals is lost. An employer is not required to pay out accrued, unused sick time at the time of employment termination.

Do I Have to Provide Notice to my Employees?

Yes, a covered employer must give written notice to new hires at the commencement of employment regarding rights under the Ordinance. Employers must provide employees who are already employed on the effective date of the Ordinance with written notice as soon as practicable and display a poster approved by the Jersey City Department of Health and Human Services. Approved notices and posters are available at: http://www.cityofjerseycity.com/uploadedFiles/For_Businesses/Page_2_legal.pdf. The notice and poster must be provided not only in English but also in the primary language spoken by the employee provided that the Department has made available a translation of the notice into the relevant language. Currently, the Department has made available notices and posters in the following languages: English, Arabic, Chinese, Hindi, Spanish, and Tagalog.

Are There Record Keeping Requirements?

Yes. Going forward, employers must retain records documenting the hours worked by employees and paid sick time taken by employees for three years. Employers must also allow the Jersey City Department of Health reasonable access to these records. Failure to maintain records creates a rebuttable presumption that the employer has violated the Ordinance.

What If I Already Have A Paid Sick Time or Leave Policy?

Employers that already have a paid sick time or leave policy that provides at least an equal amount of paid sick time for the same qualifying events covered by the Ordinance are not required to provide more paid sick time. However, these employers should have existing paid sick time or leave policies reviewed by counsel to ensure that all requirements of the Ordinance are met.



Can I Be Fined For Violating The Ordinance?

Yes. Employers that violate the Ordinance face a fine of up to \$1,250 and/or up to 90 days of community service per violation. Employees who feel their employer has violated the Ordinance may complain to the Department of Health and Human Services and/or bring a claim in a court of competent jurisdiction.

Employers that violate the notice requirements are subject to a civil fine of up to \$100 for each employee who was not given proper notice. Employers that violate the posting requirements are subject to a civil fine of up to \$500 for each employer establishment where a poster was not displayed.

Can I Treat Sick Time Under the Ordinance As Leave Taken Under the Family and Medical Leave Act and the New Jersey Family Leave Law?

Not necessarily. The events that create rights to leave under the three sets of laws are not identical. Also, an employer may be covered by the Ordinance but not covered by the FMLA. Be sure to have your leave policies reviewed by counsel to ensure compliance with all applicable laws.

How Can I Make Sure That I Am In Compliance?

The attorneys at Genova Burns Giantomasi Webster are available to assist employers in their compliance efforts. For more information on the new Ordinance, or for information on paid sick time laws in other jurisdictions, please contact [Patrick W. McGovern](mailto:pmcgovern@genovaburns.com), pmcgovern@genovaburns.com, or [Rebecca Fink](mailto:rfink@genovaburns.com), rfink@genovaburns.com, in the firm's [Labor Group](#).

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