

California Paid Sick Leave: Frequently Asked Questions

► [español](#)

Starting on January 1, 2024, employers must generally provide 5 days or 40 hours of paid sick leave to their employees in California. The Labor Commissioner has updated the [paid sick leave poster \(Spanish\)](#) [\(Korean\)](#) [\(Tagalog\)](#) [\(Chinese Simplified\)](#) [\(Vietnamese\)](#) and [2810.5 employee notice \(Spanish\)](#) [\(Korean\)](#) [\(Tagalog\)](#) [\(Chinese Simplified\)](#) [\(Vietnamese\)](#) . All employers should post the new poster. An employer previously providing less than 5 days or 40 hours of paid sick leave per year will need to provide employees a new copy of the notice. Questions 15 & 16 below address how employers can transition to the new requirements.

Updated December 21, 2023

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. 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.

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 more (refer to [DLSE Opinion Letter 2015.08.07](#)).

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.



These examples assume the employee has earned or received upfront their full amount of leave.

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.

For example, if an employee covered by a qualifying CBA is denied paid sick leave because they could not find a replacement worker, the employer would be in violation of California's paid sick leave law and the employee could seek remedies for these violations by filing a claim with the Labor Commissioner's Office.

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 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.

Note: An employer is not required to restore previously accrued and unused paid time off (PTO), if the sick leave was provided pursuant to a PTO policy covering sick leave which was paid or cashed out to the employee at the end of the previous employment with that employer.

10. 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

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

Employers may choose to have an “*accrual*” policy or an “*up front*” policy.

12. What is an accrual policy?

An *accrual* policy is one where employees earn sick leave over time, with the accrued time carrying over in each year of employment. In general terms (and subject to some exceptions), employees under an accrual plan must earn at least one hour of paid sick leave for each 30 hours of work (the 1:30 schedule).

Although employers may adopt or keep other types of accrual schedules (other than 1:30), the schedule must result in an employee having at least 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment and 40 hours by the 200th calendar day of employment. If an employer is using the 1 hour of paid sick leave accrued for 30 hours worked or something more generous (e.g. 1 hour accrued of paid sick leave for every 20 hours worked), then the employer does not have to provide 24 hours or 3 days by the 120th day of the year and 40 hours or 5 days by the 200th day. The requirements to provide the minimum amounts by the 120th day and the 200th day of the year are set up as a measure for employers who use other accrual methods so that the plans meet certain minimums. The measure assumes full time employment. The 1:30 yields the same results of roughly 24 hours and 40 hours by the 120th day and the 200th day, respectively, for full time workers.

Although employees may accrue more than five days of paid sick leave under the one hour for every 30 hours worked accrual method (or under an alternative accrual standard), the law allows employers to limit an employee’s use of paid sick leave to 40 hours or five days during a year.

The law also allows an employer to limit an employee's total accrued paid sick leave to no more than 80 hours or ten days. Before January 1, 2024, an employer could limit an employee's use to 24 hours or three days during a year and an employee's accrual to no more than 48 hours or six days.

13. 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.

14. 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 measurement will often be tracked by the employee's anniversary date.

15. If an employer uses an accrual method and capped an employee's yearly use of leave at 3 days or 24 hours, what must an employer do to comply with the law on January 1, 2024?

If an employer uses an annual start date other than January 1 and implements a 12-month use cap, that cap must change to 40 hours or 5 days on January 1, 2024. For example, if an employer uses the 12-month period of May 1 - April 30 and implements a cap and an employee used 24 hours or three days before January 1, 2024, the employer must allow the employee to use an additional 2 days or 16 hours before April 30 if the employee has accrued that additional leave.

16. If an employer utilized the "up-front" method prior to January 1, 2024 and provided an employee with 3 days or 24 hours of leave on the employee's anniversary date during the year, what must an employer do to comply with the law on January 1, 2024?

The employer has the choice to frontload the two additional days on January 1, 2024 or move the measurement of the yearly period to January 1, 2024 and frontload five days. For example, if an employee started on

May 1, 2021 and the employer used that anniversary date to frontload 3 days or 24 hours on May 1, 2023, the employer may either provide 2 days or 16 hours on January 1, 2024 and keep the May 1 date to frontload or can “reset” the frontload date to January 1, 2024 and provide the employee 5 days or 40 hours then.

17. Under the accrual method, can I carry over unused sick leave from one year to the next?

Yes, but an employer may limit or cap the overall amount of sick leave an employee may accrue to 10 days or 80 hours, whichever is more.

18. Why does the law let me accrue more time than I could use in a year?

Accrual, carryover, and use are all distinct concepts.

Accrual:	Accrual of paid sick leave is based on the number of hours an employee works
Carryover:	The amount of paid sick leave carried over to the next year; may be subject to a cap if the employer establishes a cap by policy. For accrual policies, this ensures the employee will have time available at the beginning of the following year.
Use:	The use of paid sick leave may be limited to 5 days or 40 hours per year.

19. 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:

- o 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. (Note, the provisions of Labor Code section 227.3 concerning the requirements for payment for vested vacation time at termination of employment.)

20. 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.

21. 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.

22. My company offers unlimited time off. How does the paid sick leave law affect me?

Most employers with this policy do not track how much time employees take off or for what reason. Although the law requires that employers separately track sick leave accrual and use, for employers with unlimited paid time off plans, the notice, itemized pay stub or separate written statement provided with the payment of wages meets this requirement by indicating the paid sick leave is “unlimited”.

Taking paid sick leave

23. 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.

24. 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.

25. 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.

26. 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 amount of hours for each time an employee takes paid sick leave, not to exceed two hours.

27. 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.

(Lab. Code § 246.5, subd. (c)(1).)

Separately, Labor Code section 233 (commonly referred to as the “Kin Care” law) requires an employer to allow an employee to use accrued and “available” sick leave (which is the amount that would accrue during a six month period) for the purposes specified in the paid sick leave law. Labor Code section 234 provides that “[a]n employer absence control policy that counts sick leave taken pursuant to Section 233 as an absence that may lead to or result in discipline, discharge, demotion, or suspension is a per se violation of Section 233.”

This means, in general terms, that if an employee **has accrued sick days available**, an employer may not deny the employee the right to use those accrued paid sick days, including the right to use paid sick leave for a partial day (e.g., to attend a doctor’s appointment), and may not discipline the employee for doing so.

Many employers have attendance policies under which employees may be given an “occurrence” or similar adverse personnel action (which is a form of discipline with potentially negative repercussions) if the employee has an unscheduled absence or provides insufficient notice of an absence. Under the terms of the paid sick leave law (and Labor Code sections 233 and 234), if an employee **has accrued and available sick leave**, and is using his or her accrued paid sick leave for a purpose as specified in the law, it is **not permissible** for an employer to give the employee an “occurrence” for the absence under such an attendance policy because this would constitute a form of discipline against an employee for using his or her paid sick leave as allowed under the paid sick leave law.

If an employee does **not** have any accrued or available paid sick leave, however, (e.g., if the employee has already used all of his or her accrued and available paid sick leave under the employer’s policy, including as consistent with Labor Code section 233), and if the employee has an unscheduled absence that would otherwise violate the employer’s attendance policy, the paid sick leave law does not prohibit the employer from giving the employee an “occurrence” for such absence, even if the employee was actually sick and/or could have used paid sick leave for the absence if he or she had any such leave accrued. The paid sick leave law does not “protect” all time off taken by an employee for illness or related purposes; it “protects” only an employee’s accrued and available paid sick leave as specified in the statute.

Similarly, if an employee has an absence that would otherwise violate the employer's attendance policy, and if the absence was for a reason **not** covered under the paid sick leave law, the employer is not required to allow the employee to use paid sick leave for that absence, and it is not a violation of the law for the employer to give an "occurrence" for such absence. The paid sick leave law provides that an employer **shall provide paid sick days for the following purposes:**

- (1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.
- (2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(Lab. Code § 246.5, subd. (a).) An employer is not required to allow an employee to use accrued paid sick days for reasons other than those listed in the statute (as quoted above).

In addition, if an employee has an unscheduled absence that would otherwise result in an "occurrence" under an employer's attendance policy, and if the employee chooses to use accrued paid sick leave for only **part** of the unscheduled absence (for example, if the employee is absent for a full eight-hour day of work, but elects to use only four hours of his or her accrued paid sick leave for the absence [which the employee is allowed to do], the employer would be allowed to give an "occurrence" (or 1/2 of an "occurrence") for the one-half day of unscheduled absence for which no paid sick leave was used. Only time that is properly taken as accrued paid sick leave is protected from disciplinary action. The same would be true if the employee had a full eight-hour unscheduled absence, but only had available four hours of accrued paid sick leave. The portion of the unscheduled absence not covered by accrued paid sick leave could be subject to disciplinary action under the employer's attendance policy.

Payment and tracking of earned and taken leave

28. 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.

29. 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.

To determine the rate of pay, the employer may either:

- Calculate your regular, non-overtime rate of pay for the workweek in which you used paid sick leave, whether or not you actually worked overtime in that workweek (in general terms, this is usually done by dividing your total non- overtime compensation by the total non-overtime hours worked), or
- Divide your total compensation for the previous 90 days (excluding overtime premium pay) by the total number of non-overtime hours worked in the full pay periods of the prior 90 days of employment¹

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).

¹Please see Opinion Letter dated October 11, 2016 for an explanation of how to calculate paid sick leave for commissioned employees. This FAQ presumes payment by salary.

30. 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. If an employer provides unlimited paid sick leave or unlimited paid time off, the employer may indicate "unlimited" on your pay stub or other document provided to you the same day as your wages.

Employers also must keep records showing how many paid sick day you earned and used for three years. This information may be stored on

documents available to employees electronically.

31. 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.

32. Do I have the right to cash out my unused sick days, like I can with vacation and paid time off?

No, not unless your employer's policy provides for a payout. If you leave your job and get rehired by the same employer within 12 months, you can reclaim (restore) what you had accrued in paid sick leave, provided it was not paid out pursuant to a paid time off policy at termination.

Required information to be provided to employees

33. How will I learn of my rights to paid sick leave from my employer?

Employers are required to display a poster in an area frequented by employees where it may be easily read during the workday.

The workplace posting must contain the following information:

- That an employee is entitled to accrue, request, and use paid sick days;
- The amount of sick days provided for and the terms of use of paid sick days;
- That retaliation or discrimination against an employee who requests paid sick days or uses paid sick days or both is prohibited; and
- That an employee has the right under this law to file a complaint with the Labor Commissioner against an employer who retaliates or discriminates against an employee

The Labor Commissioner has developed and regularly updates a poster, and the 2024 update is now available on the Labor Commissioner's website. [\(Spanish\)](#) [\(Korean\)](#) [\(Tagalog\)](#) [\(Chinese Simplified\)](#) [\(Vietnamese\)](#)

Employers are also required to provide most employees with an individualized Notice to Employee (required under Labor Code section 2810.5) that includes paid sick leave information. [\(Spanish\)](#) [\(Korean\)](#) [\(Tagalog\)](#) [\(Chinese Simplified\)](#) [\(Vietnamese\)](#)

34. How will I know if my employer's policy has different terms from the paid sick leave law?

The state law providing for paid sick leave creates *minimum* standards for paid sick leave. Employers may use their existing policies so long as the policy complies with the minimum requirements of the law.

The Notice to Employee form includes a check box to inform an employee of an employer's own existing paid time off or paid sick leave policy that meets or exceeds the requirements of the paid sick leave law.

To avoid misinformation or misunderstanding regarding an employer's paid time off or paid sick leave policy, employers are encouraged to ensure that employees are made fully aware of the terms and conditions of their policy. Although the notice requirements of Labor Code section 2810.5 do not apply to employees who are exempt from the payment of overtime, employees who are exempt from the payment of overtime are covered by this paid sick leave paid sick leave law.

Updated: December 2023