



Paid Leave and Paid Sick and Safe Leave Frequently Asked Questions (FAQs)

Updated December 20, 2023

Disclaimer: This document does not represent legal advice.

 PAID LEAVE		
REQUIRES PAID LEAVE TO BE USED FOR ANY REASON (MCC 6-130)		
Employers must provide Employees who work at least 80 hours within any 120-day period the ability to use Paid Leave (PL) for any reason of an Employee's choosing		
Accruing Leave	Using Leave	Carrying Over
PL accrues at a rate of 1 hour of PL for every 35 hours worked (up to 40 hours in a 12- month period)	Employees must be allowed to use accrued PL no later than on the 90 th day following the commitment of employment	Up to 16 PL hours can be carried over between 12-month periods (if PL is not frontloaded).

 PAID SICK AND SAFE LEAVE		
REQUIRES PAID SICK LEAVE FOR MEDICAL OR SAFETY REASONS (MCC 6-130)		
Employers must provide Employees who work at least 80 hours within any 120-day period the ability to use Paid Sick Leave (PSL) for medical and safety reasons for both the Employees and their family members		
Accruing Leave	Using Leave	Carrying Over
PSL accrues at a rate of 1 hour of PL for every 35 hours worked (up to 40 hours in a 12- month period)	Employees must be allowed to use accrued PSL no later than on the 30 th day following the commitment of employment	Up to 80 PSL hours can be carried over between 12-month period

What changes are coming to Chicago regarding paid time off?

After December 31, 2023, all Employers must allow their Covered Employees to accrue and use Paid Sick Leave. As of July 1, 2024, all Employers must also allow their Covered Employees to also accrue Paid Leave.

When does accrual of paid time off begin under the Chicago Paid Leave and Paid Sick and Safe Leave Ordinance (Ordinance) ?

Accrual for Paid Leave begins upon the start of employment or July 1, 2024, whichever is later. Accrual for Paid Sick Leave also starts July 1, 2024, or the start of employment, whichever is later. However, if the Covered Employee already accrued Paid Sick Leave prior to July 1, 2024, then those hours carry forward. For those Covered Employees only the rate of accrual changes, as the rate of accrual changes from one hour earned for every 40 hours worked to one hour earned for every 35 hours worked.

When can Covered Employees start using their Paid Leave under the Ordinance?

Covered Employees are entitled to begin using their Paid Leave after 90 days.

When can Covered Employees start using their Paid Sick Leave under the Ordinance?

Covered Employees are entitled to begin using their Paid Sick Leave after 30 days.

Do I have to still give Paid Sick Leave to Covered Employees?

Yes, Covered Employees should continue to have access to and use accrued Paid Sick Leave under Chicago's current Chicago Minimum Wage and Paid Sick Leave Ordinance (MCC § 6-105-045). Time accrued will transition to Paid Sick Leave (MCC Ch. 6-130) on July 1, 2024.

Who is a Covered Employee?

A Covered Employee means an Employee who works at least 80 hours for an Employer within any 120-day period while physically present within the geographic boundaries of Chicago.

Once that threshold is met, the Employee shall remain a Covered Employee for the remainder of the time that the Employee works for the Employer.

There is no distinction between part-time, full-time, or seasonal employees.

Who is an Employer?

An Employer means a person who gainfully employs at least one Employee.

What is Paid Leave?

Paid Leave represents hours that a Covered Employee accrues and can use to take paid time off for any reason of the Covered Employee's choosing.

What is Paid Sick Leave?

Paid Sick Leave is paid time away from work that a Covered Employee may use in order to take care of a number of conditions, such as time for getting better from an illness or taking care of an ill family member or even taking a family member to a doctor.

How is Paid Leave and Paid Sick Leave time accrued?

Employees must qualify for and accrue Paid Leave and Paid Sick Leave. If an Employee works at least 80 hours in any 120-day period in Chicago, the Employee qualifies for Paid Leave and Paid Sick Leave and is categorized a Covered Employee. For every 35 hours worked, a Covered Employee accrues one hour of Paid Leave **AND** one hour of Paid Sick Leave. The Covered Employee may accrue up to 40 hours of Paid Leave and up to 40 hours of Paid Sick Leave in any 12-month period unless the Employer sets a higher limit. The 12-month period starts when a Covered Employee first starts to accrue Paid Leave and Paid Sick Leave.

Can Paid Leave or Paid Sick Leave be accrued in anything other than hourly increments?

No, Paid Leave and Paid Sick Leave can only be accrued in hourly increments.

If a Covered Employee works outside Chicago, can that Covered Employee still accrue Paid Leave and Paid Sick Leave?

Hours worked outside Chicago do not count towards the accrual of Paid Leave or Paid Sick Leave.

What documents are required when an Employee decides to use Paid Leave?

An Employer may not require a Covered Employee to provide a reason for the use of Paid Leave and may not require them to provide documentation or certification as proof or in support of the use of Paid Leave.

What documents are required when an Employer decides to use Paid Sick Leave?

An Employer may require a note after an Employee uses Paid Sick Leave three consecutive workdays in a row.

Under what circumstances can a Covered Employee use Paid Sick Leave due to a medical issue in the family?

A Covered Employee can use Paid Sick Leave when a member of the employee's family is ill or injured, or to care for a family member receiving medical care, treatment, diagnosis, or preventative care. The employee can also use Paid Sick Leave when the employee needs 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. Finally, the employee can use Paid Sick Leave if a family member is the victim of domestic violence or a sex offense.

Who counts as a family member for the purposes of Paid Sick Leave?

A family member is a Covered Employee's child, legal guardian or ward, spouse under the laws of any state, domestic partner, parent, spouse or domestic partner's parent, sibling, grandparent, grandchild, or any other individual related by blood or whose close associate with the Covered Employee is the equivalent of a family relationship. A child includes not only a biological relationship, but also a relationship resulting from an adoption, step-relationship, or foster care relationship, or a child to whom the Covered Employee stands *in loco parentis*. A parent includes a biological, foster, stepparent or adoptive parent or legal guardian of a Covered Employee, or a person who stood *in loco parentis* when the Covered Employee was a minor child.

What notices does an Employer need to provide to Covered Employees?

The Employer must provide the Paid Leave and Paid Sick Leave notice to all Covered Employees with their first paycheck and in communal areas at a workplace. Notices must be provided in English and any language spoken by Employees that do not speak English proficiently, notices in six languages have been provided by the Department of Business Affairs and Consumer Protection on the Office of Labor Standards website. Requests for additional languages can be made via e-mail at BACPLaborStandards@cityofchicago.org.

Can notices be transmitted electronically?

Yes, the notices mandated to be provided with Covered Employee's paychecks can be transmitted electronically. Likewise, notices can be posted physically in break rooms or other communal areas at a workplace and can be displayed electronically on electronic bulletin boards and TV monitors in communal areas. All physical notices must be scaled appropriately (8.5 X 11 inches for notices provided with paychecks, and 11 X 17 inches for workplace postings). While there are no specific size requirements for electronic notices, they should be at least as legible as the physical notice requirements.

Payout of PL upon employment termination

- **Small Employers (1-50 employees) are exempt**
- **Medium Employers (51-100 employees) must pay out up to 16 hours of PL until 07.01.2025; up to 56 hours after that date**
- **Large Employers (101+ employees) must pay out up to 56 hours**

Does Paid Leave under the Ordinance need to be paid out upon an employee's termination, resignation, or retirement?

Depending on the size of the Employer (see above box) accrued Paid Leave would need to be paid out upon separation of employment.

At no time does the Ordinance mandate that more than seven days of Paid Leave be paid at separation of employment.

How is the size of an Employer determined?

For purposes of Paid Leave and Paid Sick Leave, numbers of Covered Employees will be aggregated if they are employed by members of a single unitary business group as defined for Illinois income tax purposes.

Does Paid Sick Leave need to be paid out upon an employee's termination, resignation, or retirement?

Unless an applicable collective bargaining agreement provides otherwise, an Employer is NOT required to provide financial or other reimbursement for unused Paid Sick Leave to a Covered Employee.

May an Employer front load Paid Leave and Paid Sick Leave at the beginning of the year?

Yes, an Employer may front load either or both Paid Leave and Paid Sick Leave by giving a 12-month period's worth of Paid Leave or Paid Sick Leave.

An Employer may make available Paid Leave and Paid Sick Leave "in proportion" or "pro-rata" to their fiscal or calendar year.



CARRYOVER

- Up to 16 hours of Paid Leave (if not front loaded)
- Up to 80 hours of Sick Leave

Does an Employer need to allow carry-over, also known as roll-over, of Paid Leave and Paid Sick Leave?

Unless an Employer front loads Paid Leave hours or Paid Sick Leave hours or both, Covered Employees are allowed to carry over unused, accrued Paid Leave and Paid Sick Leave from one year to the next. Covered Employees are allowed to carryover up to 16 hours of Paid Leave and 80 hours of Paid Sick Leave.

Covered Employees must be allowed to utilize their carryover time in addition to accrued time in a new year.

Does an unlimited paid time off (PTO) policy comply with the Ordinance?

A fact-specific analysis of the PTO policy would need to be conducted to ensure compliance with Ordinance. Factors to be considered would be: reasonable access and ability to utilize at least 80 hours of PTO in a year; rate of pay for the PTO time that is used; and notification and approval policies for the usage of PTO time.

Are overtime hours (non-exempt employees) worked by an Employee count for accrual purposes of the Ordinance?

Yes, employees eligible for overtime under the Fair Labor Standards Act should have their hours counted for accrual purposes under the City's 1 hour accrued for every 35 hours worked metric.

What rate of pay do we use to pay our tipped employees if they use a day of Paid Leave or Paid Sick Leave?

The Employer shall pay at least the highest amount of the federal minimum wage, the Illinois minimum wage or the FULL Chicago minimum wage.

What rate of pay do we use to pay our commission-based employees if they use a day of Paid Leave or Paid Sick Leave?

The Employer shall pay at least the highest amount of the base hourly wage, the federal minimum wage, the Illinois minimum wage or the Chicago minimum wage.

At what increment can Covered Employees use Paid Leave?

A Covered Employee may use Paid Leave at a minimum of four-hour increments. An Employer may choose to allow a Covered Employee to use Paid Leave in smaller increments.

At what increment can Covered Employees use Paid Sick Leave?

A Covered Employee may use Paid Sick Leave at a minimum of two-hour increments. An Employer may choose to allow a Covered Employee to use Paid Leave in smaller increments.



I'm an Employee and I think my rights under the Paid Leave and Paid Sick and Safe Leave Ordinance have been violated. How can I submit a complaint to the Office of Labor Standards?

You can submit a complaint several ways:

1. Call 3-1-1
2. Use the CHI 311 mobile application
3. Download and mail a complaint form to the Office of Labor Standards, Department of Business Affairs and Consumer Protection, 2350 West Ogden Avenue 1st Floor, Chicago, IL 60608. The complaint form can be found online at: Chicago.gov/LaborStandards.
4. Download and email the complaint to the Office of Labor Standards at bacplaborstandards@cityofchicago.org.

Information on the complaint form should detail the basis of your complaint. If appropriate, the Office of Labor Standards will review your complaint and start an investigation.