

## **San Francisco Sick Leave Ordinance**

Passed by the voters in November 2006; endorsed by HSN  
Requires employers to provide paid sick leave to employees

### **Requirements for accrual of paid sick leave**

Employers must provide at least **one hour of paid sick leave for every 30 hours worked**. Sick leave is accrued in hour-unit increments; you do not have to provide fractions of hours. If you already provide a sufficient paid leave policy that employees can use for the same purpose, you are not required to provide additional paid sick leave.

The Ordinance will take effect 90 days after the election (February 5, 2007).  
Current employees will begin to accrue paid sick leave on February 5.  
New employees after February 5 must begin to accrue sick leave after 90 days of employment.

Employees include any person working within San Francisco, including part-time and temporary employees and Welfare-to-Work participants. The definition includes people employed through a temporary services or staffing agency.

For small businesses, there is a 40-hour cap on accrued paid sick leave. A small business means an employer with fewer than ten employees. For other employers, there is a 72-hour cap. Accrued sick leave carries over from year to year (but limited to the caps).  
You are not required to reimburse employees for unused sick leave upon termination.

### **Amount of paid sick leave: Examples**

A full-time employee (52 weeks/year x 40 hours/week) would work 2080 hours and accrue 69 hours/year of paid sick leave.

In a small business, an employee would reach the 40-hour cap after working 1200 hours. For a full-time employee, this would take 30 weeks.

For all other businesses, an employee would reach the 72-hour cap after working 2160 hours, or 54 weeks for a full-time employee.

### **Requirements for use of paid sick leave**

Paid sick leave may be used for the employee's illness, injury, medical condition, diagnosis or treatment, or medical reason; and for time taken off by an employee to provide care or assistance to certain other persons for a medical reason.

The employee can use paid sick leave to care for the following: child, parent, legal guardian or ward, sibling, grandparent, grandchild; and spouse, domestic partner, or "designated person". These relationships may be biological or through adoption, step-relationships and foster care.

Designated person: If an employee has no spouse or domestic partner, the employee may designate one person for whom they may use paid sick leave to provide care. You must provide an opportunity for the employee to make a designation within 10 days of accrual of their first

hour of paid sick leave. After that window of time, you must provide employees with an annual opportunity to name or change their designated person.

### **Other key provisions**

Employers cannot require employees to search for or find a replacement worker when they use paid sick leave. Employers may require employees to give reasonable notice of an absence. Employers may only take reasonable measures to verify or document that an employees' use of paid sick leave is lawful.

All or any portion of these requirements may be waived through collective bargaining, but must be waived expressly in the agreement in clear and unambiguous terms.

This Ordinance does not preempt or limit other laws that provide for greater accrual of sick leave. For example, the Minimum Compensation Ordinance requires that employees working on City contracts receive 12 paid and 10 unpaid days off per year; this remains in effect.

The Office of Labor Standards Enforcement (OLSE) is responsible for implementing and enforcing this legislation.

OLSE will publish a workplace notice in multiple languages to inform employees of their rights under this Ordinance. Employers must post this notice in the workplace in any language spoken by at least 5% of your employees at the site.

Employers must retain records of hours worked and sick leave taken for four years, and allow OLSE access to these records to monitor compliance (with appropriate notice and at a mutually agreeable time).

The Ordinance contains additional provisions regarding employee rights, prohibition against retaliation, enforcement, penalties for violation, and civil enforcement.

### **Issues for health and human service nonprofits**

HSN believes that our members already provide sufficient paid sick leave to most of their current employees, and that this law will have minimal impact for most organizations. Employers will have to extend paid sick leave benefits to employees that don't currently receive them, such as temporary employees.

However, the most significant problem for many nonprofit health and human service nonprofits is the extension of paid sick leave to relief or on-call workers. As with all other employees, these workers will accrue one hour of paid sick leave for every 30 hours worked. The challenge lies in determining when these employees may use their paid sick leave. The nature of their jobs is such that employers have no obligation to schedule them, and the employees have no obligation to work and can decline to take shifts. It is unclear whether a relief worker would now be able to use sick leave when an employer contacts them to request that they work a shift. At minimum, it appears likely that a relief worker could begin a shift, and then leave (using paid sick leave) if they became ill.

HSN has asked OLSE to clarify this question before the law takes effect. Because OLSE is currently focused on drafting rules for the new Health Access Program, they do not plan to address the new Sick Leave Ordinance until early January.