



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

TITLE: Legally-Mandated Paid Sick Leave for Eligible Employees

NUMBER: BUL-6529.1

ISSUER: David Holmquist, General Counsel
Office of the General Counsel

DATE: August 3, 2015

ROUTING

All Employees
All Locations

PURPOSE: The purpose of this Bulletin is to provide District employees with information and guidance in regard to California mandatory paid sick leave for eligible employees who currently do not receive sick days.

MAJOR CHANGES: This bulletin replaces BUL-6529.0, dated June 26, 2015, on the same subject and issued by the Office of the General Counsel. This revised bulletin reflects change necessitated by the July 2015, amendment to the Healthy Workplaces, Healthy Families Act of 2014, and includes an updated related resources. The amendment excludes a retired annuitant of a public agency from the definition of employees eligible for mandatory paid sick leave.

BACKGROUND: The Healthy Workplaces, Healthy Families Act (“Act”) of 2014 (commencing with Section 245 the Labor Code), provides mandatory paid sick days for specific eligible employees who currently do not have paid sick days. Effective July 1, 2015, eligible employees are entitled to up to three (3) protected paid sick days or 24 hours in a 12-month period, for the diagnosis, care or treatment of a health condition, or for preventative care for an employee or an employee’s family member. The new law does not provide additional sick days to District employees who already receive paid sick days. The Act also provides paid sick days to an employee for certain purposes related to being a victim of domestic violence, sexual assault or stalking. The Act defines employee eligibility, prescribes use of mandatory paid sick days, eligible family members, notice requirements and contains non-retaliation provisions.

The legislative intent of the Healthy Workplaces, Healthy Families Act is to ensure workers in California can address their own health needs and the health needs of their families by requiring employers to provide a minimum level of paid sick days, including time for family care. The Act is also intended to decrease public and private health care costs by enabling workers to seek early and routine medical care for themselves and their family members, and to address domestic violence or sexual assault; to provide economic security to those who take time off from work for reasons related to domestic violence or



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

sexual assault; and, safeguard the welfare, health, safety and prosperity of the people of California.

The provisions of the Act are in addition to and independent of any other rights, remedies or procedures available under any other law and do not diminish, alter or negate any other legal rights, remedies or procedures available to an aggrieved person.

GUIDELINES: The following guidelines apply:

I. Definitions

1. "Employee" does not include the following:
 - a) an employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay not less than 30 percent more than the state minimum wage rate.
 - b) an employee who is a recipient of a retirement allowance and employed without reinstatement into the Public Employees' Retirement System.
2. "Employer" means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.
3. "Family member" means any of the following:
 - a) Child – biological, adopted, foster child, stepchild, legal ward or a child to whom the employee stands *in loco parentis*. This definition of child is applicable regardless of age or dependency status;
 - b) Parent – biological, adoptive, foster parent, stepparent or legal guardian of an employee or the employee's spouse or registered domestic partner or a person who stood in *loco parentis* when the employee was a minor child;
 - c) Spouse;
 - d) Registered domestic partner;
 - e) Grandparent;



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

- f) Grandchild; or,
 - g) Sibling.
4. “Health care provider” means:
- a) An individual holding either a physician’s or surgeon's certificate issued, an osteopathic physician's and surgeon's certificate issued pursuant to specified sections of the Business and Professions Code, or an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, who directly treats or supervises the treatment of the serious health condition; or,
 - b) Any other person determined by the United States Secretary of Labor to be capable of providing health care services under the FMLA.
5. “Paid sick days” means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purpose of mandatory paid sick days.

II. Eligibility

- 1. District employees who did not previously earn illness time or personal necessity, including substitutes, professional experts, return retirees, paid interns, paid student workers and temporary workers, who work for 30 or more days within a year of the first day worked, are entitled to mandatory paid sick days.
- 2. Mandatory paid sick days are not in addition to sick days granted to certain employees under the Education Code or bargaining unit agreements.
- 3. The District is not required to, and does not provide additional paid sick days under the Act to employees who already earn an illness bank.
- 4. This bulletin applies to employees who are eligible to receive mandatory paid sick days under the Act. All further references to employees refer to employees eligible to receive mandatory paid sick days.

III. Mandatory Paid Sick Days

- 1. The District has elected to “front load”, or advance, the annual allotment of mandatory paid sick days. With respect to eligible employees (see Eligibility, Section II above) who worked before July 1, 2015, the full annual allotment of 24 hours will be available on July 1, 2015. The employment year for purposes of mandatory paid sick days, for these employees will start on July 1, 2015.



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

2. An employee who starts work on or after July 1, 2015, is entitled to use mandatory paid sick days beginning on the 90th day of employment. The District is using a “rolling” employment year for employees hired on or after July 1, 2015. The employment year will start on the employee’s first day of work.
3. Eligible employees will receive a new annual allotment of mandatory paid sick days every July 1, or on the first day of their anniversary month of their hire date, depending on the start of their employment year.
4. Mandatory paid sick days do not carry over to the next employment year and do not accrue. Unused paid sick days remaining at the end of the employment year are forfeited.
5. The maximum entitlement to mandatory paid sick days is 3 days or 24 hours, per employment year.
6. The maximum number of paid illness hours an employee can use per absence day is based on the employee’s assignment hours per day on the day the employee will receive mandatory paid sick time.
7. Mandatory paid sick days may only be used on days the employee is scheduled to work or offered an assignment.
8. The District will not lend or advance mandatory paid sick days/hours to an employee prior to the employee’s eligibility to receive the days.

IV. Purpose of Mandatory Paid Sick Days

Upon oral or written request, an employee can use mandatory paid sick days for the following purposes:

1. Diagnosis, care or treatment of an existing health condition, or preventative care for an employee or an employee’s family member (See Family Member, section I above).
2. For an employee who is a victim of domestic violence, sexual assault or stalking.

V. Notice

1. An employee must make an oral or written request to use mandatory paid sick days for a purpose consistent with the Act (see Purpose, section IV).
2. An oral or written request for mandatory paid sick days must be documented on the “Certification/Request of Absence for Illness, Family Illness, New Child, Form No. 60.ILL (Certification of Absence form).
3. If the need for the use of mandatory paid sick days is foreseeable, an employee must provide reasonable advance notice.



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

4. If the need for mandatory paid sick days is not foreseeable, the employee must give notice as soon as practicable.
5. An employee request to use mandatory paid sick leave for a prescribed purpose, as outlined in this bulletin, cannot be denied.

VI. Notice of Available Sick Leave

Paycheck stubs will indicate an employee's unused sick leave balance.

VII. Protected Time Off – Anti-Retaliation

Time taken off work for mandatory paid sick days is job protected. The District shall not deny an employee the right to use the 3 mandatory paid sick days or 24 hours, discharge, threaten to discharge, demote, suspend or in any manner discriminate against an employee for using the accrued mandatory sick days, attempting to exercise the right to use the mandatory accrued sick days, filing a complaint with the department or alleging a violation of the Healthy Workplaces, Healthy Families Act of 2014. This does not mean that employees with excessive absenteeism outside of the job protected absences are exempt from discipline. Employees with excessive absenteeism beyond the job protected absences are still subject to discipline, up to and including dismissal.

RECORDKEEPING:

The District requires that records substantiating the time reported to the Payroll Administration Branch for payments must be kept on file and retained at the location for a period of five years for audit purposes.

SEPARATION/ REINSTATEMENT:

The District will not provide compensation to an employee for unused mandatory paid sick days received under the Healthy Workplaces, Healthy Families Act, upon termination, resignation, retirement, or other separation from District employment.

If an employee separates from the District and is rehired by the District within one year from the date of separation, previously unused mandatory paid sick days will be reinstated upon rehiring. The rehired employee will be able to use those previously unused mandatory paid sick days.

POSTERS:

Every District worksite must post in an area frequented by employees the "Healthy Workplaces/ Healthy Families Act of 2014 Paid Sick Leave" poster. This poster is included in the District's "Mandatory Employment Notices," 3-part poster revised January 2015.



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

AUTHORITY: This is a policy of the Superintendent of Schools. This policy is established in accordance with the Healthy Workplaces, Healthy Families Act of 2014.

RELATED

RESOURCES: Family and Medical Leave Act/California Family Rights Act – Supervisors’ FMLA/CFRA Reference Guide, REF-6022.0, March 25, 2013, Division of Risk Management and Insurance Services.

Mandatory Posting of Regulatory Notices Relating to Federal and State Employment Laws, BUL-4991.3, February 18, 2015, Division of Risk Management and Insurance Services.

New Certification of Absence Forms, BUL-6307.1, Office of the Superintendent, July 8, 2015.

Reporting Paid Sick Leave for Substitute/Temp Eligible Employees, REF-6528.0, Accounting and Disbursements Division.

Uniform Complaint Procedures (UCP), BUL-5159.3, Office of the General Counsel, dated May 15, 2014.

ASSISTANCE: Adult Education Unit at (213) 241-4953.

Beyond the Bell at (213) 633-3535.

California Department of Industrial Relations –
<http://www.dir.ca.gov/dlse/resource.html>

Certificated Substitute Unit at (213) 241-6117.

Certificated Early Childhood Education Unit at (213) 241-2204.

Classified Personnel at (213) 241-6337, Monday through Friday, 8:00 a.m. – 5:00 p.m., for assistance or questions regarding the Certification/Request of Absence form.

Equal Opportunity Section of the Office of General Counsel at (213) 241-7685 for assistance with alleged discrimination.

SubFinder User Guide for Certificated Substitutes –
<http://achieve.lausd.net/Page/4747>

Employee Service Center at (213) 241-6670 or via email at employeeservices@lausd.net for assistance with payroll related issues.



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

Integrated Disability Management at (213) 241-3954 for information and assistance regarding protected leaves.

Office of the General Counsel (213) 241-7600 for administrator assistance regarding legal issues.