

New Federal Paid Sick Leave Rule



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On September 29, 2016, the U.S. Department of Labor released new paid sick leave requirements for federal contractors. All contractors, absent some exclusions, who perform work for or in connection with the federal government, must give each of their employees the opportunity to earn up to 56 hours of paid sick leave per calendar year. Employees accrue this sick leave at the rate of 1 hour for every 30 hours worked. Employees are also allowed to carry over a maximum of 56 hours of unused paid sick leave to the following calendar year. This rule applies to all persons or entities who contract directly with the federal government, as well as their sub-contractors.

When is the New Rule Effective?

Barring subsequent developments, the requirements of the rule become effective November 29, 2016, sixty days following the final rule's September 30, 2016 publication. However, employee accrual of paid time off benefits won't begin until on and after January 1, 2017.

Who this New Rule Affects

This law applies to procurement, service, concession and real estate contracts with the federal government entered into on or after January 1, 2017, other than those excluded as one of the following:

- Grants;

- Contracts and agreements with, and grants to, Native American tribes;
- Procurement contracts for construction that are excluded from coverage under the Davis-Bacon Act;
- Contracts for services that are exempted from coverage under the Service Contract Act;
- Employees performing in connection with covered contracts, but not directly engaged in the specific work called for by the contract, and whose performance of indirect work comprises less than 20 percent of their work hours in a given work week; or
- Employees whose covered work is governed by a collective bargaining agreement that already provides 56 hours of paid sick time (if less than 56 hours, the difference must be provided).

Employees otherwise exempt from the minimum wage and overtime requirements of the Fair Labor Standards Act are covered by this rule.

What Hours Count in the Accrual Calculation?

Only covered hours count. This means contractors only need count those hours employees spend performing work on or in connection with a federal government contract within the United States.

When and How Can Paid Sick Leave be Used?

An employee can request to use their paid sick leave hours whenever they choose for any of the following reasons:

- any physical or mental illness or injury;
- to attend a doctor's appointment;
- to care for their child, parent, spouse, domestic partner, or any other individual related by blood or affinity with whom they have a family relationship; and
- for a situation involving domestic violence, sexual assault or stalking, including any resulting legal action or needed relocation.

How Does This New Policy Affect Benefits Under the Family and Medical Leave Act (FMLA) or Other Employee Benefit Plans?

The new policy has no effect on FMLA or other employee benefit plans. Paid sick leave can run concurrently with unpaid FMLA leave under the same conditions as other paid time off. Employees can use paid sick leave for any time off designated as FMLA.

How Will This Rule Be Enforced?

The Department of Labor will have authority to investigate and issue determinations on alleged violations of the rule. Penalties for violation(s) can include suspension of existing contracts for up to three years, as well as outright debarment.

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