

Sample Policy for Employers Who Allow Employees to Accrue Leave Throughout the Year

Pursuant to Maryland law, employees are entitled to earn sick and safe leave at the rate of 1 hour for every 30 hours that an employee works up to a maximum of 40 hours per year. The year commences on January 1st and ends on December 31st. An employee accrues earned sick and safe leave at a rate of at least one hour for every 30 hours the employee works, however, an employee is not entitled to earn more than 40 hours of sick and safe leave in a year.

An employee is not entitled to earn sick and safe leave during:

1. a two-week pay period in which the employee worked fewer than 24 hours total;
2. a one-week pay period if the employee worked fewer than a combined total of 24 hours in the current and preceding pay period; or
3. a pay period in which the employee is paid twice per month and the employee worked fewer than 26 hours in the pay period.

An employee who is exempt from the overtime provisions of the Fair Labor Standards Act is assumed to work 40 hours per week.

An employee may carry over any earned but unused sick and safe leave up to 40 hours but an employee may not accrue more than 64 hours of sick and safe leave at any time.

Employees will not be paid for any unused sick and safe leave upon termination of employment. If an employee leaves employment and is rehired within 37 weeks of leaving, any earned and unused sick leave that the employee had at the time of separation will be reinstated.

Leave Usage

Employees are not permitted to use leave during the first 106 calendar days of their employment.

An employee is allowed to use earned sick and safe leave under the following conditions:

- To care for or treat the employee's mental or physical illness, injury or condition;
- To obtain preventative medical care for the employee or the employee's family member;
- To care for a family member with a mental or physical illness, injury or condition;
- For maternity or paternity leave; or
- The absence from work is necessary due to domestic violence, sexual assault or stalking committed against the employee or the employee's family member and the leave is being used: (1) to obtain medical or mental health attention; (2) to obtain services from a victim services organization; (3) for legal services or proceedings; or (4) because the employee has temporarily relocated as a result of the domestic violence, sexual assault or stalking.

A family member includes a spouse, child, parent, grandparent, grandchild, sibling, or legal guardian. For a complete list of family members included under the law, please see §3-1301(G) of the Labor and Employment Article of the Maryland Annotated Code.

Employees are permitted to use the leave in increments of not less than 4 hours.

If the need to use sick and safe leave is foreseeable (for example a scheduled doctor's appointment), the employee must provide notice 7 days prior to leave use. If the need to use leave is not foreseeable, the employee must provide notice as soon as practicable.

A request for earned sick and safe leave may be denied if the employee fails to provide the required notice and the employee's absence will cause disruption to the employer.

Employees may only use earned sick and safe leave for one of the listed authorized reasons. Employees using earned sick and safe leave for unauthorized purposes or who have demonstrated a pattern of abusing sick and safe leave may be denied the right to use sick and safe leave in the future.

If an employee uses sick and safe leave for more than two consecutive scheduled shifts, the employee must provide verification that the leave use was appropriate.

As indicated above, employees may not use sick and safe leave for the first 106 days of their employment.

Notice

An employer is required to notify its employees that the employee is entitled to earned sick and safe leave along with an explanation of how earned sick and safe leave accrue and the purposes for which the leave may be used. Maryland law prohibits an employer from taking adverse action against an employee for exercising their rights under this law as well as prohibits an employee from making a complaint, bringing an action or testifying in an action in bad faith.

Questions

The Commissioner of Labor and Industry has oversight of issues related to earned sick and safe leave. The Commissioner may be contacted at ssl.assistance@maryland.gov.