



City of Berkeley Paid Sick Leave (PSL) FAQ

(Updated September 20, 2017)

1) **Q:Where can I find information relating to Berkeley's Paid Sick Leave Ordinance?**

A:Information related to Paid Sick Leave and other labor standards is posted on the City of Berkeley website www.cityofberkeley.info/Labor. You can also call 981-CITY/2489 or 3-1-1 from a landline in Berkeley)

2) **Q:When did the Berkeley Paid Sick Leave take effect?**

A:Berkeley's Paid Sick Leave ordinance went into effect on October 1, 2017. The ordinance requires that employers provide paid sick leave to employees at the rate of one (1) hour for every 30 hours worked.

3) **Q:Does the Berkeley Paid Sick Leave apply to all Employers that have Employees who perform work in Berkeley?**

A:Yes, all Employers regardless of where they are located, must provide paid sick leave to their Employees who perform at least two hours of work per week within the geographic limits of the City of Berkeley.

4) **Q:Are the Berkeley Paid Sick Leave regulations the same for Employees of small and large businesses?**

A:No. The ordinance defines Employers with fewer than 25 Employees as a "Small Business". Small businesses may cap an Employee's accrual of paid sick leave at 48 hours as well as their use of paid sick leave at 48 hours within a calendar year. Employers with 25 or more Employees may cap accrual of paid sick leave at 72 hours but may not limit an Employee's use of Paid Sick Leave.

5) **Q:Does Berkeley Paid Sick Leave cover Employees who work in Berkeley but are not Berkeley residents?**

A:Yes. Any person who performs at least two hours of work in a week for an Employer within the geographic boundaries of the City of

Berkeley is entitled to earn Paid Sick Leave regardless of where they live.

6) Q:Between local and state laws relating to Paid Sick Leave, which standards apply?

A:Employers subject to state and local Paid Sick Leave laws must follow the stricter standard or the law that is the most beneficial to the Employee.

7) Q:Does the Berkeley Minimum Wage Ordinance protect undocumented workers?

A:Yes. Workers reporting violations of the Paid Sick Leave Ordinance or Minimum Wage Ordinance with the City of Berkeley will not be questioned about their immigration status.

8) Q:When is an Employee eligible to use Paid Sick Leave?

A:An Employee may begin using Paid Sick Leave 90 calendar days after commencement of employment.

9) Q:Under what circumstances can an Employee use Paid Sick Leave?

A:An Employee may use Paid Sick Leave not only when they are ill or injured or for the purpose of the Employee's receiving medical care, treatment, or diagnosis, but also to aid or care for the following persons when they are ill or injured or receiving medical care, treatment, or diagnosis: child, parent, legal guardian or ward, sibling, grandparent, grandchild, and spouse, registered domestic partner under any state or local law, or designated person.

10) Q:What is the accrual method for providing Paid Sick Leave for Employees?

A: *Option 1:* Provide one (1) hour of Paid Sick Leave for every 30 hours worked.

Option 2: Employers can provide any lump sum of Paid Sick Leave at the beginning of each employment year, calendar year or 12-month period, so long as the employee can accrue additional Paid Sick Leave after working enough hours to have accrued the amount allocated upfront.

11) Q:What is the minimum amount of Paid Sick Leave that can be used at a time?

A: A minimum of one (1) hour of Paid Sick Leave can be used. After the initial hour in each occurrence, Paid Sick Leave can be used in increments of 15 minutes thereafter.

12) Q: When is Paid Sick Leave due to the Employee?

A: On the payday for the next regular payroll period after Paid Sick Leave is taken.

13) Q: How does an Employee know how much Paid Sick Leave time they have accrued?

A: Each pay period, the Employer must indicate in writing how much paid sick leave time an Employee has accrued. It can be indicated within the Employee's paystub or other

14) Q: Can an Employee cash out unused Paid Sick Leave?

A: An Employer is not required to allow an Employee to cash out paid sick leave or pay for accrued or unused Paid Sick Leave at separation of employment. However, if an Employee separates from employment, but returns to that Employer within 12 months, previously accrued Paid Sick Leave shall be restored.

15) Q: Does accrued Paid Sick Leave carry-over?

A: Accrued Paid Sick Leave carries over into the next year but is limited by the accrual cap.

16) Q: How does Berkeley's Paid Sick Leave Ordinance relate to an Employer's Paid Time Off (PTO) policies?

A: No additional Paid Sick Leave benefits are required if the paid leave can be used for the same purposes and meets the minimum accrual requirements of the ordinance.

17) Q: What can I do if my Employer retaliates against me because I question him/her about not being provided Paid Sick Leave?

A: Under the ordinance, it is unlawful for the employer to retaliate against any Employee who asserts their right to receive Paid Sick Leave. An Employee or another person may report to the Department in writing any suspected violation labor standards, including retaliation. A fine of one thousand dollars (\$1,000) may be assessed for retaliation by an employer for exercising rights protected under the Paid Sick Leave Ordinance. For a full description of actions and

remedies please refer to sections 13.100.070 and 13.100.080 of the Paid Sick Leave Ordinance.

18) Q:Are there any exemptions to the Berkeley Minimum Wage or Paid Sick Leave Ordinance?

A:Prior to October 1, 2016, there were exemptions for Employees who were on “standby” or “on-call” and for job training participants that were under 25 years old when the job training program was operated by a nonprofit or governmental program. City Council eliminated these exemptions in 2016. To the extent required or allowed by state or federal law, all or any portion of the applicable requirements of this Chapter may be waived in a bona fide collective bargaining agreement, provided that such waiver is explicitly set forth in such agreement in clear and unambiguous terms.

Please email further questions to Rules4Work@cityofberkeley.info

Or call

Health, Housing & Community Services Department

(510) 981-CITY/2489 or 311 from a landline in Berkeley

www.cityofberkeley.info/Labor

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