

e-Alert: Westchester County NY Passes Earned Sick Leave Law

Background

Workers in Westchester County, New York, who don't get sick days off at work will soon be entitled to earn sick time with passage of a new law effective April 11, 2019. Following are highlights of the new regulations.

Employers and employees covered

- All employers and employees in Westchester County are covered under this law.
- Employees need to have been employed in Westchester County for more than 80 hours in a calendar year.

Basic guidelines

The new law will have the following provisions:

- Employees generally will accrue a minimum of one hour of sick leave for every 30 hours worked. Earned sick leave carries over from year to year but employers are not required to provide more than 40 hours in a year.
- An employee generally may use earned sick leave as it is accrued, but new employees after April 11, 2019, may be required to wait 90 days to accrue and/or use earned sick leave.
- Employees in businesses with five or more employees must provide 40 hours of paid earned sick leave per year. Employees in businesses with fewer than five employees earn 40 hours of unpaid earned sick leave per year.
- In general, eligible employers must pay an employee for paid earned sick leave at the same rate of pay he or she normally earns. However, an employer is not required to pay an employee for accrued but unused leave upon termination, resignation, or retirement.
- If the employee's need to use earned sick leave is foreseeable, an employer may require advance notice. For unforeseeable sick leave, an employer may require the employee to give notice as soon as practicable.
- For earned sick leave of more than three consecutive work days, employers may require reasonable documentation that the sick leave has been used for a purpose covered by the law.
- Employers must retain records documenting the hours worked and sick leave earned and taken by employees for at least three years.
- Employees can use leave for themselves or to care for a family member's mental or physical illness, injury, health condition, or preventative medical care. A family member is defined as a child, spouse, domestic partner, parent, sibling, grandchild, or grandparent, as well as a child, parent, or grandparent of an employee's spouse, domestic partner, or household member.

Mandatory posting and notice

Employers must provide a copy of the law and written notice (to be created by the state) regarding the leave to each employee at the time of hiring or within 90 days of April 11, 2019 — whichever is later — in English, Spanish, and any other language necessary. The employer will be required to display a poster (to be created by the state) in a conspicuous place accessible to employees.



Next steps for employers

- Start updating your employee handbooks with these new changes.
- For employers with five or more employees, if you have not previously offered paid sick time to employees, you will be required to do so and should create a new policy to comply with these provisions.
- For employers with fewer than five employees, you will be required to provide unpaid sick time for employees and should create a new policy reflecting these provisions.
- If you already provide sick time, review your current policies to make sure they comply with the provisions of the new law.
- If you are one of our full-service clients, we will work with you to review your current policies to ensure they are compliant with these new regulations.
- If you are not a client but would like to learn more about our services, please [contact us](#).

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