

Federal Contractors: Paid Sick Leave Is Now A Reality

Labor & Employment Law Update

By Heather Bailey on October 21, 2016

On September 7, 2015, President Obama signed Executive Order 13706 requiring federal contractors to provide paid sick leave to their employees – up to 7 days annually. The leave is related to an employee's own illness or injury, including, domestic violence, sexual assault and stalking absences, and for family care for same. The Department of Labor published its Final Rule just over a year later on September 30, 2016.

[Here are the key components:](#)

- The Final Rule applies to any new federal contracts solicited on or after January 1, 2017, replacement contracts (for those that are expiring) that are solicited on or after January 1, 2017, and contracts awarded outside of any solicitations on or after January 1, 2017.
- The Final Rule covers procurement contracts for construction under the Davis-Bacon Act (contracts subject only to DB Related Acts — for example where a federal agency provides financial assistance or insurance but does not directly procure construction services — are excluded); service contracts covered by McNamara-O'Hara Service Contract Act; concessions contracts; and federal property or lands contracts, including contracts related to offering services to federal employees or the general public.
- Good news for banks and financial institutions: unless you are otherwise covered by the above contracts, this Final Rule does not apply to you since "money" alone is not considered federal property.
- Accrual = 1 hour of paid sick leave for every 30 hours the employee works on or related to a covered contract up to a maximum of 56 hours each year.
- Employers who do not want to track accrual hours may give employees a bank of at least 56 hours of sick leave to use throughout the accrual year.
- Employees must be notified in writing at the end of each pay period or month (whichever is shorter) of the amount of paid sick leave available to them.
- Any accrued but unused leave must carry over year to year, but the Final Rule imposes no obligation to pay out the sick leave bank upon termination of employment (although state law may, so be sure to check state laws on this topic of payout of earned vacation, sick, PTO, etc. to ensure compliance).
- Employees can take the leave in increments as low as 1 hour.

- All rejections of sick leave requests must be in writing and state the reason for the denial. That reason cannot be no replacement worker was found or the operational needs of the company.
- Certification can only be required for absences of 3 or more days and with prior notice if the employee needs to certify his/her return to work.
- Here is your new poster.

The good news is the Family Medical Leave Act leave runs concurrently with this new paid sick leave and you can use your existing paid time off policies so long as the rights and benefits meet or exceed the requirements of the Final Rule.

The DOL's Final Rule can be found [here](#) and Fact Sheet, [here](#).

With the new and ever changing paid sick leave laws in various states, cities and locales, it is a good idea to reconcile them all (including CBAs) with these new requirements to ensure compliance so you don't get hit with a penalty to pay damages or worse, debarment.

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