



# ADMINISTRATIVE REGULATION

## Office of the City Manager

Number	420
Sections	1-11
Effective Date	07/01/15
Responsible Department	Human Resources
Review Date	07/01/17

### SUBJECT: Paid Sick Leave (AB 1522)

#### 1. Purpose:

Effective July 1, 2015, California's Paid Sick Leave Law (AB 1522) requires the City of Huntington Beach to provide paid sick leave to employees under the terms and conditions specified herein. This policy meets the requirements of the Healthy Workplace Healthy Families Act of 2014 as codified in the State of California Labor Code Sections 245-249 and Labor Code Section 2810.5.

#### 2. Authority:

Section 401 of the Huntington Beach City Charter.

#### 3. Application:

This policy applies to contract, hourly/part-time Ambulance Operators, all temporary, part-time, hourly, and seasonal employees, and SCLEA unit members. This policy applies to paid student interns (all levels), including Police Cadets. This policy does not apply to employees in the following bargaining units: FMA, HBFA, MEA, MEO, MSMA, POA, or PMA. This policy does not apply to Non-Associated employees. This policy does not apply to volunteers. This policy does not apply to CalPERS retired annuitants.

#### 4. Definitions of Terms:

For purposes of this policy, the following definitions shall apply.

- 4.1 Employee – A paid employee or student intern of the City of Huntington Beach not covered by the City of Huntington Beach Personnel Rules and/or a valid collective bargaining agreement.
- 4.2 Employer – The City of Huntington Beach and incorporated charter municipality.
- 4.3 Family Member – any of the following shall constitute a family member under this policy:
  - 4.3.1 Child – a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.
  - 4.3.2 Parent – a biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

- 4.3.3 Spouse
- 4.3.4 Registered Domestic Partner
- 4.3.5 Grandparent
- 4.3.6 Grandchild
- 4.3.7 Sibling
- 4.3.8 Health Care Provider - An individual holding either a physician's and surgeon's certificate, an osteopathic physician's and surgeon's certificate or an individual duly licensed as a physician, surgeon, or osteopathic physician who directly treats or supervises the treatment of a serious health condition.
- 4.3.9 Paid Sick Days – time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described herein.

## **5. Policy:**

It shall be the policy of the City of Huntington Beach to provide paid sick leave to employees defined herein, in accordance with the provisions of the Healthy Workplace, Healthy Families Act of 2014.

Employees qualify and become eligible for sick leave by working within the State of California on or after January 1, 2015, for at least 30 days within a year, and by satisfying the 90-day waiting period. The 30 day work period is calculated beginning January 1, 2015. The 90-day wait period becomes effective the later of January 1, 2015 or the date of employment with the City of Huntington Beach, whichever is later.

- 5.1. An eligible employee may use 3 days or 24 hours of accrued paid sick leave in a 12-month period for one of the following reasons:
  - 5.1.1 The employee's own diagnosis, care, or treatment of an existing health condition or preventative care.
  - 5.1.2 The diagnosis, care, or treatment of an existing health condition or preventative care for an employee's family member, including:
    - 5.1.2.1. Child (including a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis.)
    - 5.1.2.2. Spouse or Registered Domestic Partner
    - 5.1.2.3. Parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.)
    - 5.1.2.4. Grandparent
    - 5.1.2.5. Grandchild
    - 5.1.2.6. Sibling

- 5.1.3 To obtain any relief or services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:
  - 5.1.3.1. A temporary restraining order or restraining order.
  - 5.1.3.2. Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.
  - 5.1.3.3. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
  - 5.1.3.4. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
  - 5.1.3.5. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
  - 5.1.3.6. To participate in safety planning and take other actions to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

## **6. Procedure:**

The City of Huntington Beach may elect to use either the Accrual or the Frontload Method, subject to the following provisions:

### **6.1. Accrual Method:**

- 6.1.1. An employee begins to accrue paid sick leave at the rate of one (1) hour of paid sick leave for every thirty (30) hours worked beginning on the first day of employment.
- 6.1.2. An employee is not eligible to begin using any accrued paid sick leave until after 90 days of employment with the City of Huntington Beach. Length of employment shall be measured using the employee's date of hire.
- 6.1.3. An employee is only allowed to use up to a maximum of 48 hours of accrued paid sick leave.
- 6.1.4. An employee can only accrue paid sick leave up to a cap of 6 days or 48 hours. If an employee reaches the 48 hour cap, no further sick leave hours will accrue until the employee's accrual balance falls below the cap.
- 6.1.5. Unused accrued paid sick leave will carryover year to year while continuously employed, up to the 48 hour accrual maximum.
- 6.1.6. Sick leave accrual balances will be provided on the employee's payroll advice memo.
- 6.1.7. The minimum sick leave use is two (2) hours.
- 6.1.8. The maximum sick leave use is the employee's available accrual.
- 6.1.9. An employee may not use paid sick leave hours before they are accrued.
- 6.1.10. Sick leave accrual is not available for cash out either during employment or at separation from employment regardless of the type of separation from City service.

- 6.1.11. Sick leave may not be loaned or borrowed from other employees (no catastrophic leave donations).

**6.2. Frontload Method:**

- 6.2.1. The Agency will provide each employee with 3 days or a maximum of 24 hours of paid sick leave at the beginning of each 12-month period.
- 6.2.2. An employee is not eligible to begin using any accrued paid sick leave until after 90 days of employment with the City of Huntington Beach.
- 6.2.3. Accruals under the front-load method do not carryover from year to year.
- 6.2.4. Sick leave accrual is not available for cash out either during employment or at separation from employment regardless of the type of separation from City service.
- 6.2.5. The minimum sick leave use is two (2) hours.
- 6.2.6. The maximum sick leave use is the employee's available accrual.
- 6.2.7. An employee may not use paid sick leave hours before they are accrued.
- 6.2.8. Sick leave accrual is not available for cash out either during employment or at separation from employment regardless of the type of separation from City service.
- 6.2.9. Sick leave may not be loaned to or borrowed from other employees (no catastrophic leave donations).

**6.3. Alternative Method**

- 6.3.1. The City may use a different accrual method, other than provided one hour per every 30 hours worked, provided the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120<sup>th</sup> calendar day of employ or each calendar year, or in each 12-month period.
- 6.3.2. The City satisfies the appropriate accrual requirements by providing not less than 24 hours or three days of leave that is available to the employee to use by the completion of his/her 120<sup>th</sup> calendar day of employment.
- 6.3.3. The City is not required to provide additional paid sick days when there exists a paid leave policy or paid time off policy that makes available an amount of leave that may be used for the same purposes and under the same conditions as specified herein provided the policy satisfies the accrual, carryover and use requirements specified herein.

**7. Employee Notification Obligations**

- 7.1. If the need for paid sick leave is foreseeable, the employee must provide reasonable advance notice. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for leave as soon as practicable, according to this policy.
- 7.2. An employee may request to use paid sick leave for an unscheduled event by calling his/her supervisor as soon as it is known that sick leave use is required, but not less than thirty (30) minutes prior to his/her scheduled shift start time.

- 7.3. The employee shall not be required to obtain a replacement worker to cover the hours during which the employee has the need to use paid sick leave.
- 7.4. A supervisor, with the concurrence of the Director of Human Resources, may require an employee to provide written confirmation from a physician confirming the necessity for a scheduled absence pursuant to the permissible purposes outlined in this policy and/or indicating that the employee is medically cleared to return to work.
  - 7.4.1. The employee will be advised in advance of this requirement.

**8. Payment of Paid Sick Leave**

- 8.1. Paid sick leave hours will be compensated at the employee's current hourly wage.
- 8.2. Employees will only receive paid sick leave for the number of hours they would have worked during the scheduled shift for which the employee requested sick leave use.
- 8.3. Employees must use sick leave in at least two (2) hour increments.
- 8.4. Employees must complete and submit the SICK LEAVE USE FORM to the department timekeeper or supervisor for processing immediately upon return to work. The department timekeeper or supervisor will retain a copy of the SICK LEAVE USE FORM and will submit the original document to payroll for accurate recordkeeping and payment of sick leave.
- 8.5. If the employee, in the 90 days of employment before taking accrued sick leave, had different hourly wage rates, then the rate of pay shall be calculated by dividing the employee's total wages, not including any overtime pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.
- 8.6. Paid sick leave will be paid in conformance with the regular payroll period schedule.
- 8.7. Paid sick leave will not be considered hours worked for the purposes of the computation of FLSA overtime.

**9. Separation from Employment**

- 9.1. Accrued sick leave hours that are accrued, but not used prior to the employee's last day of employment are forfeited at the time of resignation, termination, layoff, retirement or other separation from employment.
- 9.2. Accrued sick leave may not be used to extend an employee's employment with the City.
- 9.3. An employee rehired within one (1) year of the date of separation, may have his/her forfeited sick leave accrual reinstated.
- 9.4. An employee rehired within one (1) year whose sick leave accrual is reinstated will not be required to wait 90 days from date of rehire to use any accrued sick leave, provided the employee had previously worked 90 days prior to separation. If the employee had not previously worked 90 days prior to separation, the employee will be required to work the balance of any remaining days to achieve 90 days of employment prior to usage of any accrued sick leave.

**10. Employer Notification and Recordkeeping**

- 10.1. The City of Huntington Beach shall provide employees with written notice (via payroll advice memo) setting forth the amount of paid sick leave accrued/available.

- 10.2. The City of Huntington Beach shall display a poster at City Hall, in the Office of Human Resources, that contains information specified in the Labor Code [LC 2810.5] or the poster published by the State of California Department of Industrial Relations, Division of Labor Standards Enforcement related to the Healthy Workplaces/Healthy Families Act of 2014.
- 10.3. The City shall exercise its permitted exclusion from the Initial Hire Notice requirement. [Labor Code Section 2810.5(C)(1)]
- 10.4. The City shall retain sick leave accrual and usage records for a period of at least three (3) years. Such records will document the hours worked, and sick leave hours accrued and used/paid for each employee. An employee may request access to individual records in the same manner regarding itemized wage statements and pay stubs.
- 10.5. Employees may obtain a copy of this policy from the Office of Human Resources at any time.
- 10.5.1 Inquiries regarding the application of this policy may be directed to the Office of Human Resources.

**11. Prohibition Against Retaliation**

- 11.1. The City of Huntington Beach is prohibited from engaging in various types of conduct, including retaliation and discrimination related to the provisions of AB 1522. The City of Huntington Beach will not deny any eligible employee the right to accrued sick leave nor will the City of Huntington Beach discharge, threaten to discharge, demote, suspend, or discriminate against an employee for:
- 11.1.1. Using accrued sick leave
- 11.1.2. Attempting to exercise the right to use accrued sick leave
- 11.1.3. Filing a complaint with the State Labor Commissioner or alleging a violation of the law
- 11.1.4. Cooperating in an investigation or prosecution of an alleged violation of the law; or
- 11.1.5. Opposing any policy or practice or act that is prohibited by law.


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