

Nonprofit 411: Earned Sick Time- Tips for Nonprofits

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In November 2014, Massachusetts voters approved a ballot initiative entitling all employees in the state to earned sick leave, making the Commonwealth one of few states to adopt mandated sick leave policies.

Just as Massachusetts is a leader in addressing issues related to workplace policies, the state's nonprofits are at the forefront of issues related to inequality, championing efforts to improve the lives of our residents. With the Earned Sick Leave Act scheduled to go into effect on July 1, 2015, it is more important than ever for the state's nonprofits to ensure compliance with this new law, both for the sake of their own employees and to advance the goal of expanded economic opportunity which they advocate.



Though situations may vary from organization to organization and it is always best to consult an attorney for guidance, here are five key points that nonprofits should keep in mind as they adjust to the Earned Sick Leave Act.

1. The law applies to all public and private employers with 11 or more employees (including full-time, part-time, and temporary workers). For small organizations (with ten or fewer employees), the mandated sick time can be unpaid leave.
2. Employees will accrue one hour of sick leave for every 30 hours worked, up to a maximum of 40 hours per calendar year. Sick time will be paid at the employee's standard hourly rate.
3. The Earned Sick Leave Act includes a few provisions that are broader than what is mandated in the Family and Medical Leave Act. Most notably, sick time may be used for a wider range of reasons, including: home care, preventative medical care (including mental illness), routine medical appointments, addressing the effects of domestic violence, and child care.
4. Employees may carry over up to 40 hours of unused sick time into the next calendar year. Unlike vacation time, sick time is not considered a form of wages and is not required to be paid upon termination of employment.
5. For sick leave exceeding three days, an employer may request medical documentation. However, the employer cannot require information regarding the nature of the illness, and may not delay payment for sick time because the employee failed to provide documentation.

The new law raises a number of questions that may need to be resolved. For instance, turnover in smaller nonprofit organizations is not uncommon. For the purposes of the law, how is the employer's size determined if the workforce fluctuates over a given year? Additionally, may an employer decline to grant sick leave if the employee has failed to provide "reasonable" medical documentation? While these issues are being resolved, the Attorney General's office will provide guidance on compliance.

The Earned Sick Leave Act will no doubt bring significant changes to businesses and nonprofits in the Commonwealth. Prior to the July 1 effective date, nonprofits should review existing PTO and sick time policies to determine what will need to be changed to comply with new mandates and prepare adequate training for managers, supervisors, and human resources administrators. Notably, for those organizations which already offer benefits more generous than those mandated by the new law, there may be no need to change anything.

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