



CITY OF PITTSBURGH

PAID SICK DAYS ACT FREQUENTLY ASKED QUESTIONS

Revised: September 24, 2020

(Revised or newly added questions are indicated as underlined.)

Note: For any capitalized terms, please consult the definitions of the Paid Sick Days Act and the Guidelines for Administering the Paid Sick Days Act.

1. What is the City of Pittsburgh Paid Sick Days Act?

The Paid Sick Days Act (the “Act”) is an ordinance in the City of Pittsburgh that enhances the public health by ensuring that Covered Employees are guaranteed the opportunity to receive time off that may be used for employee health care or the health care of a family member as further defined by the Act.

2. Are the posted Guidelines final?

The Guidelines are current as of February 15, 2020; however, they may be updated from time to time. According to Guideline 1(d): “As it administers and enforces Chapter 626, the Mayor’s Office of Equity may revise or replace these Guidelines or a portion thereof.” The February 15, 2020 Guidelines will remain in effect until rescinded or superseded. Any updated Guidelines will be posted on the City’s website at <https://pittsburghpa.gov/mayor/paidsickleave>.

3. What are the geographic boundaries of the City of Pittsburgh?

The City of Pittsburgh maintains, for taxation purposes, a list of zip codes within the geographical boundaries of the City. You can find this list at this link: <https://apps.pittsburghpa.gov/finance/2014-zip-codes.pdf>. Please be advised that

certain zip codes are only partially within the City's geographic boundaries. You can definitively determine whether a location is within the geographic boundaries of the City of Pittsburgh by visiting the City's website at http://pghgis-pittsburghpa.opendata.arcgis.com/datasets/a99f25fffb7b41c8a4adf9ea676a3a0b_0. On this page, you can type your address into the search bar and see if your address is within the City boundary.

4. What will the Act go into effect?

The Paid Sick Days Act will be effective and enforceable on March 15, 2020.

However, pursuant to Section 626.9 of the Act: "No fines shall be levied by the Agency against any employer starting from the effective date of this Ordinance to one year after the effective date of this Ordinance." Thus, although the Act is active and enforceable, fines may not be imposed for violations for one year after the effective date.

5. When can a Covered Employee begin using accrued Sick Time?

All Covered Employees shall be entitled to use accrued Sick Time beginning on the ninetieth (90) calendar day following the commencement of their employment.

6. When will hours of work begin to count for purposes of Sick Time accrual?

According to Guideline 3: the beginning of accrual will be March 15, 2020. Hours worked in January or February of 2020 will not count for purposes of accrual.

7. Can Employers give Covered Employees more Sick Time than the amount required by the Act?

Yes. Nothing in the Act shall be construed to discourage or prohibit an Employer from the adoption or retention of a Sick Time policy more generous than the one required therein.

8. My employer provides a paid vacation policy that meets or exceeds all requirements under the Paid Sick Days (including but not limited to requirements concerning accrual, usage, notice, and verification). I can use my paid vacation time exactly described under the Paid Sick Days Act. Must my employer provide for a separate Paid Sick Time apart from vacation?

No, an Employer that currently provides time off, be it titled as vacation, paid sick, or otherwise, that meets or exceeds all requirements under the Act has satisfied its obligation to provide Paid Sick Time and is not required to offer additional time.

9. May an Employer front-load Paid Sick Time for some Covered Employees and use the accrual method for others?

Yes. As long as an Employer provides all Covered Employees with their entitled benefits under the Paid Sick Days Act, an Employer may use different methods to provide Paid Sick Time.

10. Are Employers required to pay out unused Paid Sick Time hours at the end of an employment relationship?

No. Under Guideline 9(b) an Employer is not required to pay out unused Paid Sick Time hours at the end of an employment relationship.

11. If an Employer has a paid sick leave policy that meets or exceeds the requirements of the Act, must it still comply with the notice and documentation requirements under Sections 626.06 and 626.07 of the Act?

Yes, the Notice and Documentation requirements would still apply. However the Employer may supplement a posted notice to indicate that an Employer's policy is already in compliance.

12. Is the City's Notice Form, posted at this link [https://apps.pittsburghpa.gov/redtail/images/8014 NOTICE PAID SICK FINAL 12-16-19 - Rev. 12-17-19.pdf](https://apps.pittsburghpa.gov/redtail/images/8014_NOTICE_PAID_SICK_FINAL_12-16-19_-_Rev._12-17-19.pdf), sufficient to satisfy the notice requirements under Section 626.06 of the Act, if properly posted by an Employer?

Yes, this notice is provided pursuant to Section 626.06(b)(1) which states that: "The Agency shall promulgate all material relevant to this Section and necessary for an employer to comply with the requirements of this Section [626.06], making said material available through the City of Pittsburgh's website." This Notice is subject to revision and an Employer should check for periodic updates to the City's website.

13. Are Employers required to denote the length of Paid Sick Time on each paystub?

There is no specific record keeping method required by the Act. However, Employers are required under Section 626.07(a) to “retain records documenting hours worked by employees and Sick Time taken by employees, for a period of two (2) years.”

Guideline 10(a) advises that “[i]t is recommended that Employers choose a reasonable system for providing notification of accrued Sick Time, including listing updated amounts of Sick Time available on pay stubs (e.g., regular payroll statements) or in an online system where employees can access the information.”

An Employer’s failure to properly maintain records can have adverse consequences. Under Section 626.07(b): “When an issue arises as to an employee's entitlement to Sick Time under this Section, if the Employer does not maintain or retain adequate records documenting hours worked by the employee and Sick Time taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the Employer has violated the Chapter, absent clear and convincing evidence otherwise.”

14. Are the owners of a business included in the head count to determine the rate of accrual and caps?

No. According to Guideline 3(c): Employers should exclude owners from the headcount of employees to determine whether there are 15 or more employees for purposes of accrual rate and caps.

15. Guideline 3(d)(1) states that for Employers with fifteen or more employees, Covered Employees are permitted to accrue no more than forty hours of Paid Sick Time in a Calendar Year, unless the Employer designates a higher amount. If the Employer does not designate a higher amount, and a Covered Employee accrues 40 hours of time that carry over from the previous Calendar year 20X1, can that Covered Employee accrue additional hours in the following Calendar year 20X2?

No. In no event can a Covered Employee’s bank of available Paid Sick Time hours exceed 40 hours. In this scenario, the Covered Employee could not accrue further hours in the Calendar year because that Covered Employee began the year with 40 hours of available time. If instead only 20 hours were carried over, then the Covered Employee could accrue up to 20 hours in that Calendar Year.

When a Covered Employee has carried over or accrued an amount equal to 40 hours in a given Calendar Year, that Covered Employee is not able to accrue further time in the Calendar Year. Consequently, a Covered Employee can only use what is available at the time and as such would never be in a position to use greater than 40 hours of Paid Sick Time in any given Calendar Year.

Note that this question describes the situation for Employers with 15 or more Employees pursuant to Guideline 3. The analysis is the same for those Employers with fewer than 15 employees except that rather than a 40-hour cap, there is only a 24-hour cap.

16. For purposes of determining accrual rates and caps, do I only count employees working within the City of Pittsburgh?

No. Under Guideline 3, all employees of an Employer are counted for purposes of determining the applicable accrual rate and caps regardless of presence in the City of Pittsburgh. However, only Covered Employees will actually be receiving the time accrued, defined in Guideline 2 as an employee who performs works within the geographic boundaries of the City of Pittsburgh for at least 35 hours in a Calendar year.

17: Could employees that do no work within the City of Pittsburgh be considered Covered Employees that would accrue Paid Sick Time?

No, pursuant to Guideline 2, an employee must work 35 hours in a Calendar year within the geographic boundaries of the City of Pittsburgh to be a Covered Employee eligible for Paid Sick Time. For example, an employee who works from home outside of the City of Pittsburgh and does not perform 35 hours of work within the City of Pittsburgh would not be eligible to accrue Paid Sick Time under the Act.

18. Do hours worked outside of the City limits count for purposes of accrual?

No. According to Guideline 3, only hours worked within the City count for purposes of accrual.

19. If an employee is regularly required to drive through the City of Pittsburgh as part of the employee's job duties, but never required to make a stop in Pittsburgh, will the City consider that drive time as "performing work within the geographic boundaries of the City?"

No. Pursuant to Guideline 4, the within-Pittsburgh portion of regular travel time into and out of the City, such as that performed by truck drivers or delivery services, may be calculated by reference to the average travel time for the particular route. This Guideline is intended to capture drivers or delivery services actually making stops within the City of Pittsburgh (i.e. working) rather than those simply passing through.

20. Is there an exception for churches or universities from compliance with the Act?

No, there is currently no exception for either churches or universities from compliance with the Act.

21. Are employees covered by the terms of a collective bargaining agreement exempt from the Ordinance?

Maybe. Under Section 626.02 of the Paid Sick Days Act, the definition of “Employee” excludes any member of a construction union covered by a collective bargaining unit. Under the same provision, a Construction Union is defined as a “labor union that represents for purposes of collective bargaining employees involved in the work of construction, reconstruction, demolition, alteration, custom fabrication or repair work and who are enrolled or have graduated from a ‘registered apprenticeship program.’”

In addition, if a collective bargaining agreement provides benefits equal to or in excess of the Act then the collective bargaining agreement could serve to satisfy an Employer’s requirements to provide Paid Sick Time.

22. Is there a definition of “employee’s family member”?

Family Member is defined in Section 626.02(g) as: “(1) A biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the employee stands in loco parentis; (2) A biological, foster, adoptive, or step-parent, or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee was a minor child; (3) A person to whom the employee is legally married under the laws of any State; (4) A grandparent or spouse or domestic partner of a grandparent; (5) A grandchild; (6) A biological, foster, or adopted sibling; (7) A domestic partner; (8) Any individual for whom the employee has received oral permission from the employer to care for at the time of the employee's request to make use of Sick Time.”

23. What are an Employers obligations to provide Notice forms in multiple languages?

According to Guideline 11, Employers must display a notice in English, Spanish, and any other primary languages of employees at the particular workplace. The City has currently provided the Notice Form in English and will be providing a Notice Form in Spanish. Please check this link: <https://pittsburghpa.gov/office-of-equity/paid-sick-leave-notice>; for updates on additional translated copies of the notice. The City will also be providing translations for thirty-three other languages. Please note that an Employer ultimately bears the responsibility to translate and post the proper notice in any primary languages of employees at Employer's workplace, regardless of whether the City has provided a translated Notice Form.

24. When may newly hired employees begin to use accrued Sick Time?

According to Guideline 5(b), a Covered Employee may begin to use accrued Sick Time on the 90th calendar day following commencement of employment. The Paid Sick Days Act does not take effect until March 15, 2020. If a Covered Employee has been employed by their Employer for 90 calendar days prior to March 15, 2020, they are eligible to use accrued Sick Time beginning on March 15, 2020. If a Covered Employee has been employed by their Employer for 45 calendar days prior to March 15, 2020, they will be eligible to use accrued Sick Time beginning 45 calendar days after March 15, 2020.

However, Covered Employees cannot begin to accrue sick time until March 15, 2020. If an Employer is using the accrual method of providing Paid Sick time (as opposed to front-loading), a Covered Employee will have no paid sick time available on March 15, 2020, even if a Covered Employee is eligible to begin usage on March 15, 2020. If an Employer is instead front-loading paid sick time, then an Covered Employee (who has been employed by the Employer for 90 calendar days) would be able to use their paid sick time beginning March 15, 2020.

25. Could undocumented employees be Covered Employees under the Paid Sick Days Act?

Possibly. Under Guideline 2 a Covered Employee means an "individual employed by an Employer who performs work within the geographic boundaries of the City of Pittsburgh for at least 35 hours in a Calendar Year." The Paid Sick Days Act does not make a distinction between documented and undocumented employees. To the extent that an undocumented employee meets the definition of a Covered Employee, that employee could be eligible for the accrual of Sick Time. Note that Covered Employee's

specifically do not include independent contractors, State or Federal employees, any member of a construction union covered by a collective bargaining unit, or Seasonal Employees.

26. What constitutes a calendar year under the Act?

Under the Act, at Section 626.2, a Calendar Year is defined as “a regular and consecutive 12-month period, as determined by an employer and communicated to all employees.” A Calendar Year then is not necessary fixed to the period of January 1 to December 31. An Employer may set the 12 month period for the Calendar Year.

27. Is there a preferred method of tracking the Employee hours?

There is no specific record keeping method required by the Act. However, Employers are required under Section 626.07(a) to “retain records documenting hours worked by employees and Sick Time taken by employees, for a period of two (2) years.”

Guideline 10(a) advises that “[i]t is recommended that Employers choose a reasonable system for providing notification of accrued Sick Time, including listing updated amounts of Sick Time available on pay stubs (e.g., regular payroll statements) or in an online system where employees can access the information.”

As long as an Employer’s record keeping method is sufficient under the Act, Employers are free to maintain their own internal system to track hours.

Here are a few possible recommendations:

- Employers may assign their employees with the task of recording, and set up a system for employees to report that information to the employer.
- Employers may require their employees to track their own hours-particularly in instances where the employee work involves frequent passage in and out of the City of Pittsburgh.
- Employers can set an average time for certain tasks (like delivery, time for travel through the city, sales calls etc.) that is common in their line of work.

Note however that an Employer's use of any guidance here will not provide a defense to unsatisfactory or deficient record-keeping. Under Section 626.07(b): "When an issue arises as to an employee's entitlement to Sick Time under this Section, if the Employer does not maintain or retain adequate records documenting hours worked by the employee and Sick Time taken by the employee, or does not allow the Agency reasonable access to such records, it shall be presumed that the Employer has violated the Chapter, absent clear and convincing evidence otherwise."

28. If an individual owns multiple businesses in the City of Pittsburgh, must the individual consider all businesses as one consolidated entity for determining a count of employees

Not necessarily. Under Section 626.2 of the Act, an Employer is defined as a "person, partnership, limited partnership, association, or unincorporated or otherwise, corporation, institution, trust, government body or unit or agency, or any other entity situated or doing business in the City and that employs one (1) or more persons for a salary, wage, commission or other compensation. If an individual's assets include separate entities constituting multiple Employers, each Employer's employees would be counted separately for purposes of the act. Note that under the Act, Employer does not include either of the following: (a) The United States Government; and (b) The State of Pennsylvania including any office, department, agency, authority, institution, association or other body of the state, including the legislature and the judiciary.

29. Are there notice requirements placed upon Employers in excess of the requirements stated in Section 626.6 of Act and clarified in Guideline 11?

No. Employer's notice requirements are delineated under Guideline 11:

"An Employer shall display a sign at each worksite that provides notice of employee rights to Sick Time under Chapter 626, available limits, and terms of use. The sign must also provide notice that retaliation against employees who request or use Sick Time is prohibited and that a Covered Employee has the right to file a complaint with the MOE if Sick Time authorized by Chapter 626 is denied by the Employer or if the employee is retaliated against for requesting or using accrued Sick Time. A sample sign for this purpose (Notice Form) is provided on the City's website at <http://paysickleave.pittsburghpa.gov>."

"Employers must display the sign, in a conspicuous and accessible location where any of their employees work, in English, Spanish, and any other primary languages of the

employees at the particular workplace. If display of a sign is not feasible, including a situation where the employee works remotely or does not have a regular workplace, Employers may provide the sign on an individual basis in the employee's primary language in a physical or electronic format that is reasonably conspicuous and accessible."

30. When will the Paid Sick Days Act go into effect?

The Paid Sick Days Act will be effective and enforceable on March 15, 2020.

However, pursuant to Section 626.9 of the Act: "No fines shall be levied by the Agency against any employer starting from the effective date of this Ordinance to one year after the effective date of this Ordinance." Thus, although the Act is active and enforceable, fines may not be imposed for violations for one year after the effective date.

31. Who may accrue Sick Time under the Act?

Only "Covered Employees" as defined in Guideline 2, may accrue Sick Time pursuant to the Act and Guidelines.

32. What rate of pay is used for compensation of Paid Sick Time?

According to the Act at Section 626.02(i), "Paid Sick Time" is "[t]ime that is compensated at the same base rate of pay, and with the same benefits, including health care benefits, as an employee would have earned at the time of their use of the paid sick time."

Please see Guideline 7 for further information on the appropriate rate of pay to compensate Paid Sick Time.

33. How do a provide compensation for Paid Sick Time to tipped or commission employees?

According to Guideline 7: Tipped Employees and Commission Paid Employees shall be compensated for any accrued Paid Sick Time at a rate not less than the minimum hourly rate for hours worked, as required under the Pennsylvania Minimum Wage Act of 1968, 43 P.S. 333.104(a). Rate of pay shall be the base rate of pay and shall not include lost tips or commissions.

34. Must employees work a minimum amount of hours per week or month to accrue Paid Sick Time?

Accrual of Paid Sick Time is not based on amount of time worked within a particular week or month. Rather, in accordance with Guideline 3, an Employee accrues one hour of Paid Sick Time for every 35 hours worked for the Employer within the geographic boundaries of the City of Pittsburgh.

35. Does Paid Sick Day Act cover home health care workers, and domestic workers such as babysitters, nannies and housekeepers?

Possibly, if your home health care workers or other domestic workers qualify as Covered Employees and are not under any exempted status as defined in the Act and Guidelines. One possibly applicable exemption is if your home health care worker or domestic worker is an Independent Contractor. Under Guideline 2, the definition of Independent Contractor is “one who controls the method and manner in which work is done, but for whom a business controls the results of the work. E.g., a self-employed individual who receives a 1099-MISC tax form based on work performed for a business client who pays the contractor more than \$600 per year”.

36. My employer offers paid sick leave to Covered Employees, however the paid sick leave may not be used until one year following the commencement of employment. The employer’s paid sick policy otherwise meets the requirements of the Act. Must the Employer change its policy requiring one year of employment in order to be in compliance with the Act?

Yes, as per Guideline 5, the use of sick time may begin on the 90th calendar day following a Covered Employee’s commencement of employment. Thus, Covered Employees must be permitted to use paid sick leave 90 days after commencement of employment rather than one year. Note that, depending on whether the Employer uses the accrual or front loading method for providing its sick time, Covered Employees may have differing amounts of paid sick time available upon the 90th day of employment.

37. Will Substitute teachers be covered under the Act? If so, will it be at the wage earned or the minimum wage?

The Act does not cover individuals by their type of job (substitute teacher, medical professional, etc). Under the Act, only Covered Employees, who work for a defined Employer, may accrue either Paid Sick Time or Sick Time depending on the size of the Employer. Under Guideline 2, Covered Employees are individuals employed by an Employer who perform work within the geographic boundaries of the City of Pittsburgh for at least 35 hours in a Calendar year. The term, Covered Employee, does not include independent contractors, State or Federal employees, any member of a construction union covered by a collective bargaining unit, or Seasonal Employees. If an individual's employment falls within the defined thresholds of the Act then the Act would be applicable.

In addition, if the act is applicable and if a collective bargaining agreement provides benefits equal to or in excess of the Act then the collective bargaining agreement could serve to satisfy an Employer's requirements to provide Paid Sick Time or Sick Time.

As to the payment question, under Guideline 7, Covered Employees who are compensated based on a set salary or on time worked at a fixed hourly rate shall be compensated for any accrued Paid Sick Time based on the same rate as they would normally earn from work.

38. I have two jobs, does my having multiple jobs impact my ability to receive possible coverage under one or both of these jobs?

The Act does not function differently when an individual has multiple jobs. Each employment relationship is separate for purposes of the Act and would need to be individually evaluated to determine coverage. An individual's employers may both be covered by the Act, may both not be covered or one may be covered but not the other. However, the fact that one person is working for multiple employers would not by itself impact this analysis.

39. My current employee who was working in our office headquartered in Pittsburgh has been transferred to another office location outside Pittsburgh. Will the time accrued be carried over to the new location?

Pursuant to Guideline 5, an Employer shall continue to allow a Covered Employee to use previously earned Sick Time accrued under Chapter 626 after that same employee

transfers to a separate division, entity or location for a work site for the same Employer located within the city. However the Covered Employee would not accrue additional sick time or paid sick time if work continues to be performed outside the City.

40. I am self-employed. Does the Paid Sick Leave Act apply to me?

Pursuant to Guideline 2, only Covered Employees can accrue sick time or paid sick time depending on the circumstances. The definition of Covered Employee specifically exempts Independent Contractors which are further defined as those who control the method and manner in which work is done, but for whom a business controls the results of the work (E.g., a self-employed individual who receives a 1099-MISC tax form based on work performed for a business client who pays the contractor more than \$600 per year.

41. According to 'GUIDELINE 6. VERIFICATION PROCEDURES. (a) In general. For the use of Sick Time that lasts three (3) or more full consecutive days, an Employer may require the Covered Employee to present reasonable documentation that the Sick Time has been used for a purpose covered by Section 626.'

What is the definition of 3 or more full consecutive days? Does the calculation include non-working days? For example, if an employee uses sick time on Friday, and the weekend consists of non-working days, would the use of sick time on Monday be considered the 1st day, the 2nd consecutive day, or the 4th consecutive day?

After an employee has used a day of Sick Time, the next consecutive day would be the next day that the employee is scheduled for work. Therefore, if the employee uses Sick Time on Friday and is not scheduled to work until Monday, the employee's use on that Monday would be the second consecutive day.