

CITY OF CHICAGO

RULES



CHICAGO PAID LEAVE AND PAID SICK AND SAFE
LEAVE RULES SUPPORTING ARTICLE II OF TITLE 6



Mayor Brandon Johnson

Commissioner Kenneth Meyer

BY AUTHORITY VESTED IN THE COMMISSIONER OF BUSINESS AFFAIRS AND CONSUMER PROTECTION PURSUANT TO CHAPTERS 2-25, 4-276, AND 6-130 OF THE MUNICIPAL CODE OF CHICAGO, THE FOLLOWING RULES REGARDING PAID LEAVE AND PAID SICK AND SAFE LEAVE ARE HEREBY ADOPTED.

By Order of the Commissioner:

Signed:



Date: 6-24-2024

Kenneth J. Meyer
Commissioner

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ARTICLE 1 – GENERAL RULES

SECTION I. DEFINITIONS

As used in these Rules, the following definitions shall apply:

“Benefit Year” means the twelve-month period that an Employer sets for an Employee to receive Paid Leave and Paid Sick Leave benefits. The months must be consecutive. An Employer may set different dates for each Covered Employee or synchronize all of its Covered Employees to have benefits granted at the same time.

Examples of qualifying Benefit Years:

- *Anniversary date of employment*
- *Calendar Year*
- *Contract Year*
- *Fiscal Year*
- *Tax Year*

“Chapter” means Chapter 6-130 of the Municipal Code of Chicago. Citations to sections, such as “Section 6-130-XXX” or “Section 4-6-XXX” are citations to the Municipal Code of Chicago.

“Day Laborer” has the definition assigned in Section 4-6-070(a) of the Municipal Code of Chicago.

“Department” means the Department of Business Affairs and Consumer Protection.

“Wage” has the definition assigned in Section 6-100-010 of the Municipal Code of Chicago.

SECTION II. GENERAL PROVISIONS AND INFORMATION

Rule PTO 1.01 Immigration Status

Immigration status does not affect an individual’s status as a Covered Employee.

Rule PTO 1.02 Day Laborers

Day Laborers are considered Employees. Therefore, a Day Laborer who works at least eighty hours within any 120-day period for an Employer while physically present within the geographic boundaries of the City is a Covered Employee.

Rule PTO 1.03 Notice and Posting

- (a) An Employer shall post the notice required by Section 6-130-050 and prepared by the Department through the Employer’s usual methods of communication for such notices, whether by paper posting or by electronic dissemination through the Employer’s internal communication channels. A posted paper notice shall be printed on and scaled to fill a sheet of paper that measures no less than eleven inches by seventeen inches.

Employers that do not maintain a business location within the geographical boundaries of the City and households that serve as worksites for Domestic Workers are exempt from this Rule PTO 1.03(a)'s posting requirement.

Examples of posting locations

- *Bulletin board with other Federal and State mandated required postings*
- *Breakroom or lunchroom*
- *Internal communication channels include the routine or scheduled display on a monitor or TV screen*
- *Swipe in locations*

(b) The notice an Employer is required to provide with the first paycheck may be provided prior to the commencement of a Covered Employee's employment or as part of an onboarding process. The notice shall be printed on and scaled to fit a sheet of paper that measures no less than eight and a half inches by eleven inches. However, where Covered Employees are enrolled in direct deposit and do not receive a "paycheck" but have the option to review their pay stubs electronically, Employers may provide the notice to Covered Employees through the Employers' usual methods of electronic communication including, but not limited to, email, dissemination through internal communication channels, and as part of an employee handbook or part of a paid leave policy

(c) The notice required by Section 6-130-050 shall be provided by paper or electronic means in the same way as in Rule PTO 1.03(a).

(d) All notices shall be posted in English. An Employer shall request and post notices in the literary languages understood by a significant portion of its workers who are not literate in English. For purposes of this rule, "significant portion" means 5% or more of Covered Employees at a jobsite.

Rule PTO 1.04 Collective Bargaining Agreements

The requirements of the Chapter may be waived only if the waiver is explicitly set forth in a bona fide collective bargaining agreement in clear and unambiguous terms. If a collective bargaining agreement is silent as to the subject matter of the Chapter, the Chapter applies to those Covered Employees.

Rule PTO 1.05 Contents of Records of Employers

(a) Employers must maintain the following records for a period of not less than five years, and shall make such records available for inspection upon request by the Department:

1. Name of each Covered Employee.
2. Mailing address, telephone number, and email address of each Covered Employee during the time of employment

3. Occupations and job titles of Covered Employees and whether they are tipped, non-tipped, or perform duties of both tipped and non-tipped positions.
4. Hire date of each Covered Employee.
5. Date each Covered Employee was eligible to use Paid Leave.
6. Date each Covered Employee was eligible to use Paid Sick Leave.
7. Number of hours of Paid Leave accrued by or awarded to each Covered Employee.
8. Number of hours of Paid Sick Leave accrued by or awarded to each Covered Employee.
9. Dates and number of hours each Covered Employee used Paid Leave.
10. Dates and number of hours each Covered Employee used Paid Sick Leave
11. Rates of pay for each Covered Employee.
12. Hours worked each day and each workweek by each Covered Employee
13. Type of payment (hourly rate, salary, commission, etc.), straight-time and overtime pay, and total Wages paid to each Covered Employee in each pay period.
14. Dates of payment of each pay period covered by each Wage payment to each Covered Employee.

(b) If the Commissioner determines that an Employer is operating in violation of the Chapter or any other applicable provision of the Municipal Code of Chicago, the Commissioner may issue an order, which may take the form of a subpoena, directing the Employer to provide the information, including, but not limited to, the name of the business, the address of the business, the details of the information being sought pursuant to the Chapter, and any information necessary to demonstrate compliance with the Chapter within the control or possession of the Employer. The Employer shall, within 30 calendar days of the date on which such order is issued, either provide the information or file a legal objection to such order in writing with the Commissioner. If the Employer files a legal objection, the Commissioner shall provide a hearing on the objection within ten business days. The Commissioner's determination shall be final and may be appealed in the manner provided by law.

Nothing in this rule shall be considered a limitation or restriction on the Commissioner's powers and duties under Chapter 2-25 of the Municipal Code of Chicago.

ARTICLE 2 –PAID LEAVE AND PAID SICK LEAVE RULES

Rule PTO 2.01 General

(a) Chapter 6-130 articulates three main Paid Leave and Paid Sick Leave requirements: (i) accrual / grant of hours of Paid Leave and Paid Sick Leave; (ii) carryover of Paid Leave and Paid Sick Leave from one Benefit Year to the next; and (iii) usage of Paid Leave and Paid Sick Leave.

The Chapter establishes minimum standards, and Employers are at liberty to go above those standards. Those Employers whose paid time off policies meet or exceed the three main requirements of the Chapter enumerated above are not required to provide additional leave or records beyond what is required to demonstrate compliance with the Chapter.

(b) It is a violation of the Chapter to change paid time off, Paid Leave, or Paid Sick Leave policies to avoid application or use of the Chapter.

Rule PTO 2.02 Rate of Pay for Covered Employees who are not exempt from the overtime requirements of the Minimum Wage Law

For any Covered Employee who is paid on a Commission basis, whether base Wage plus Commission or Commission only, the Employer must pay Paid Leave and Paid Sick Leave to the Covered Employee at the hourly rate of pay based on the base Wage or the highest hourly rate of the federal minimum wage, the Illinois minimum wage or the full Chicago minimum wage (without any allowance or credit for tips), whichever is greater.

For any Covered Employee who receives gratuities, the Employer must pay Paid Leave and Paid Sick Leave to the Covered Employee at the highest hourly rate of the federal minimum wage, the Illinois minimum wage or the full Chicago minimum wage (without any allowance or credit for tips).

Rule PTO 2.03 Rate of Pay for Covered Employees who are not exempt from the overtime requirements of the Minimum Wage Law and have experienced a reduction in pay

The Rate of Pay for Covered Employees who have received a reduction in pay in the previous 90-day period shall be calculated by dividing the Covered Employee's total Wages by the total hours worked in the full pay periods of the prior 90 days of employment. Wages under this subsection do not include overtime pay, Gratuities, or Commissions.

Example:

Employer pays Employee \$19 an hour for 30 calendar days and Employee works 160 hours during that period, but then Employer lowers the pay rate to \$18 an hour for the next 60 calendar days, and the Employee works 320 hours during that period. The pay rate for Paid Leave or Paid Sick Leave taken immediately after this 90 day period would be calculated by taking \$3040 (the Wages from the first 30 days) plus \$5760 (the Wages from the next 60 days) and dividing it by the hours worked, in this case 480 hours, for a rate of \$18.34 an hour and not \$18.00 an hour.

Rule PTO 2.04 Accrual

(a) Only hours worked within the City of Chicago count toward accrual of Paid Leave and Paid Sick Leave.

(1) Remote workers (who meet the definition requirements of a Covered Employee) and those who telecommute (who meet the definition requirements of a Covered Employee) are covered by the Ordinance, even if the Employer is physically located outside of the geographical boundaries of the City.

- (2) Covered Employees do not accrue Paid Leave or Paid Sick Leave for the hours they are not physically working within the geographical boundaries of the City even if the Employer is located within the geographical boundaries of the City.
- (b) A Covered Employee who works on Commission and whose hours are not tracked shall accrue Paid Leave and Paid Sick Leave as a salaried Covered Employee would.
- (c) An Employer is not required to allow accrual of Paid Leave and Paid Sick Leave during a Covered Employee's use of any paid or unpaid leave.
- (d) An Employer shall keep track of hours worked by non-salaried Covered Employees to ensure proper accrual.

Rule PTO 2.05 Accrual Versus Immediate Grant/Front-loading

- (a) Instead of following an accrual model, Employers may choose to immediately grant Covered Employees Paid Leave or Paid Sick Leave or both at the beginning of employment or Benefit Year, a practice sometimes known as frontloading. Front-loading of Paid Leave done in the manner explained in PTO 2.04(b) relieves the Employer from having to follow the requirements of accrual and carryover. Front-loading of Paid Sick Leave done in the manner explained in PTO 2.04(c) relieves the Employer from having to follow the requirements of accrual BUT NOT of carryover.
- (b) If an Employer grants Covered Employees 40 hours of Paid Leave no later than 90 days after the Covered Employee began working for the Employer, then the Employer is not required to provide additional Paid Leave.
- (c) If an Employer grants Covered Employees 40 hours of Paid Sick Leave no later than 30 days after the Covered Employee began working for the Employer, then the Employer is not required to provide additional Paid Sick Leave.
- (d) Where the ordinance and these rules use the term "accrued", hours granted by frontloading shall be understood to be included in the term.
- (e) An Employer may utilize an accrual method and may also allow its Covered Employees to use Paid Leave or Paid Sick Leave prior to the actual accrual of those hours.

Rule PTO 2.06 Carryover

- (a) Paid Leave
 - (1) Unless an Employer frontloads in accordance with PTO 2.04(b), an Employer must allow the Covered Employee to carry over up to 16 hours of accrued and unused Paid Leave into the next Benefit Year.

(2) If a Covered Employee carries over accrued and unused Paid Leave to the following Benefit Year, accrual of Paid Leave in the subsequent Benefit Year shall be in addition to the hours that were accrued and unused in the previous Benefit Year and carried over.

(b) Paid Sick Leave

(1) An Employer must allow a Covered Employee to carry over up to 80 hours of accrued and unused Paid Sick Leave into the next Benefit Year.

(2) If a Covered Employee carries over accrued and unused Paid Sick Leave to the following year, the accrual of Paid Sick Leave in the subsequent Benefit Year shall be in addition to the hours accrued and unused in the previous Benefit Year and carried over.

Rule PTO 2.07 Usage

(a) Regardless of the number of Employees the Employer employs, any Covered Employee is eligible to use:

(1) accrued Paid Leave by the 90th calendar day following the commencement of employment.

(2) accrued Paid Sick Leave by the 30th calendar day following commencement of employment.

(b) If an Employer elects to offer 80 hours of Paid Leave (or an equivalent of 10 days of Paid Leave), as opposed to offering 40 hours of Paid Leave and 40 hours of Paid Sick Leave as required by the Chapter, regardless of the number of Employees the Employer employs, a Covered Employee is eligible to use such accrued Paid Leave by the 30th calendar day following commencement of employment.

This Rule applies whether the Employer uses the accrual method or immediately grants Paid Leave at the beginning of a Benefit Year.

Rule PTO 2.08 Disciplinary Leave

An Employer is not required to allow the use of Paid Leave or Paid Sick Leave when a Covered Employee has been suspended or otherwise placed on leave for disciplinary reasons.

Rule PTO 2.09 Payment of Paid Leave and Paid Sick Leave

(a) Paid Leave and Paid Sick Leave must be paid no later than the next regular payroll period beginning after the Paid Leave or Paid Sick Leave was used by the Covered Employee.

(b) An Employer may not request a Covered Employee to waive the right to use Paid Leave or Paid Sick Leave in exchange for receiving payment for unused Paid Leave or Paid Sick Leave.

Rule PTO 2.10 Employer Size Determination for Paid Leave Payout Provision

To calculate an Employer's size, the Department will count the average number of all Covered Employees (full-time, part-time, seasonal, temporary, and interns) who worked for compensation during the previous 12-months for all weeks in which at least one Covered Employee worked.

To calculate a new Employer's size, the Department will count the average number of all Covered Employees (full-time, part-time, seasonal, temporary and interns) who worked for compensation during the previous 90-days.

Rule PTO 2.11 Paid Leave and Paid Sick Leave Usage Policy and Notification Policy

(a) An Employer shall establish and adopt a reasonable written Paid Leave and Paid Sick Leave policy.

(1) The Paid Leave and Paid Sick Leave policies shall be made available in English. If an Employer has Employees that are not literate in English, the Employer shall provide the Paid Leave and Paid Sick Leave policies in languages in which those Employees are literate.

(2) The Paid Leave and Paid Sick Leave policies may be a part of an employer manual, employer handbook, or a separate document;

(3) The Paid Leave policy may require a Covered Employee to give reasonable notice, which may not exceed seven days before using such Paid Leave;

(4) An Employer that denies a Paid Leave request must do so in writing; the denial must state pre-established policy rationale and be issued to the Covered Employee immediately upon the denial.

(5) A Paid Leave policy may require a Covered Employee to obtain reasonable pre-approval from the Employer before using Paid Leave for the purposes of maintaining continuity of Employer operations. A denial of a Paid Leave request made out of consideration of an Employer's operational needs should include relevant factors such as:

- (A) Whether granting Paid Leave during a particular time-period would significantly impact business operations;
- (B) Whether the Employer provides a need or service critical to the health, safety, or welfare of the people of Chicago.
- (C) Whether similarly situated employees are treated the same for the purposes of reviewing, approving, and denying Paid Leave.
- (D) Whether granting Paid Leave during a particular time-period would significantly impact business operations.
- (E) Whether the Covered Employee has meaningful access to use all Paid Leave time the Covered Employee is entitled to use over the established Benefit Year.
“Meaningful access” means that a Covered Employee has a reasonable ability to utilize accrued Paid Leave and Paid Sick Leave. An example of a reasonable policy is one that allows a Covered Employee to take Paid Leave a Friday seven days from the request. But the policy can also say that the Covered Employee

may not take Paid Leave that Friday if it is the busiest day of the Employer's year. An example of an over-restrictive policy is one that does not allow for the usage of Paid Leave on any day except for Tuesdays, Wednesdays, and Thursdays.

(b) An Employer may establish reasonable methods for the Covered Employee to notify the Employer of the Covered Employee's need to use Paid Leave or Paid Sick Leave. There shall be a reasonable expectation that a Covered Employee will notify an Employer of the Covered Employee's need to use Paid Leave or Paid Sick Leave. Examples of such methods include:

- (1) Notifying the Covered Employee's immediate supervisor in writing or verbally
- (2) Calling a designated phone number at which a Covered Employee can leave a message
- (3) Following a uniform-call in procedure
- (4) Sending an e-mail to a designated e-mail address
- (5) Submitting a leave request in a scheduling software system
- (6) Using another reasonable and accessible means of communication identified by the Employer

(c) An Employer may restrict a Covered Employee's use of Paid Leave or Paid Sick Leave to the Covered Employee's regular work week.

Rule PTO 2.12 Available Paid Leave Written Notification

(a) An Employer may choose a reasonable system for giving notice to its Covered Employees of the availability and use of Paid Leave and Paid Sick Leave, including, but not limited to, listing updated amounts of Paid Leave and Paid Sick Leave available to each Covered Employee on pay stubs or regular payroll statements; developing an online system where Covered Employees can access such information; or providing a hand-written record of available time. Regardless of the method of notification to the Covered Employees, Employers are still required to maintain copies of these records compliance with the Chapter.

(b) An Employer is not required to provide notification to a Covered Employee if the Covered Employee has not worked any hours since the last notification.

(c) If an Employer chooses to frontload, the Employer must make written notification of the fact and the availability of the hours to a Covered Employee at the beginning of the Benefit Year.

(d) An Employer that frontloads hours is obligated to keep its Covered Employees apprised of their available and used benefits in accordance with Section 6-130-050.

Rule PTO 2.13 Benefit-Year Change

Each benefit-year period shall renew consecutively for the duration of employment unless the Employer does all the following:

- (a) Gives written notice to Covered Employees at least 14 days prior to the end of the benefit-year informing them that the benefit-year is changing or ending.
- (b) Gives written notice of the changes the Employer is making.
- (c) Ensures that changing the benefit-year period does not reduce the number of Paid Leave and Paid Sick Leave hours a Covered Employee is entitled to in a benefit-year.

Rule PTO 2.14 Certification

Section 6-130-030(j)(3) provides that an Employer may require certification for the use of Paid Sick Leave if a Covered Employee is absent for three or more consecutive workdays.

- (a) Three consecutive workdays means Paid Sick Leave absences exceeding three consecutive days that a Covered Employee is scheduled to work. For example, if a Covered Employee is scheduled to work Monday, Wednesday, and Friday and the Covered Employee uses Paid Sick Leave for those three workdays and attempts to use Paid Sick Leave the following Monday, the Employer may require certification for use of the Paid Sick Leave.
- (b) An Employer shall not require certification before receiving notification that a Covered Employee will be using Paid Sick Leave for a third consecutive workday. However, in no event shall a Covered Employee be allowed to not submit the required certification as soon as reasonably practicable.
- (c) An Employer shall not delay the use of Paid Sick Leave nor delay payment of accrued Paid Sick Leave wages on the basis that the Employer has not received the certification.
- (d) In light of the potentially significant impact on interstate commerce caused by unexpected absences during peak travel periods, a common carrier regulated under subchapter II of the Railway Labor Act, 45 U.S.C. §§ 181-188, may require certification for the use of Paid Sick Leave for an absence of one or more workdays during travel periods associated with Federal holidays and from October 29 through November 1. Such a certification requirement, and any action taken in accordance with the Employer's paid sick leave policy in conjunction with the Covered Employee's failure to provide such certification, shall not in and of itself be deemed to contravene Section 6-100-030 pertaining to the entirety of Article II of Title 6.

ARTICLE 3 – COMPLAINT PROCEDURE AND CITY INVESTIGATION

Rule PTO 3.01 Filing a Complaint

- (a) An Employee who believes that the Employee's Employer violated a requirement of Article II of Title 6 may file a complaint with the Department.
- (b) A complaint may be submitted through any one of the following methods:
 - 1. Call 311
 - 2. Use the CHI 311 mobile application
 - 3. Download and mail a complaint form to the Office of Labor Standards, Department of Business Affairs and Consumer Protection, 2350 W. Ogden

Avenue, 1st Floor, Chicago, IL 60608. The complaint form can be found online at:Chicago.gov/LaborStandards.

4. Download and email the complaint to the Office of Labor Standards at bacplaborstandards@cityofchicago.org.

- (c) The complaint shall state the alleged violations and the underlying factual bases.
- (d) All complaints filed with the Department shall be filed within 3 years after the alleged violation. However, if evidence exists that the applicable Employer concealed such violation or in any way misled Covered Employees to the Employer's or Covered Employee's rights or responsibilities, such investigation shall commence within three years of the date on which the Covered Employee or Department discovered, or reasonably should have discovered, the alleged violation.
- (e) The complainant shall provide support for their claim to the Department, and supplemental documents and information upon request. Employees are not required to provide, and the City will not request, information regarding the immigration status of any person filing a complaint.
- (f) The Department may attempt to resolve the complaint by conference, voluntary mediation, conciliation, or persuasion. The Department will consider multiple factors in deciding the monetary fines assessed to an Employer for violations of the Chapter. These factors include, but are not limited to, whether the Department finds that the Employer made good faith efforts to cure, correct, or mitigate violations after receiving notice of the complaint, or whether the Department finds that violations were of a technical nature and did not cause material harm to Covered Employees.

Rule PTO 3.02 Severability

These rules are declared to be separate and severable. If any clause, sentence, paragraph, subdivision, section, subsection, or portion of these rules or the application thereof to any Employer, Employee, or circumstance, is held to be invalid, it shall not affect the validity of the remainder of these rules, or the validity of the application of the rules to other persons or circumstances.