



# Cook County Commission on Human Rights

## Cook County Paid Leave Ordinance

### FREQUENTLY ASKED QUESTIONS

This document is a compilation of Frequently Asked Questions (FAQs) regarding the Cook County Paid Leave Ordinance. The Cook County Paid Leave Ordinance (PLO) No. 24-0583 was passed by the Cook County Board of Commissioners on December 14, 2023. FAQs should not be considered a substitute for the appropriate official documents (i.e. statute and/or administrative rules). Individuals are urged to consult legal counsel with legal questions. The Commission cannot provide individuals with legal advice. These FAQs are non-binding, not to be considered complete, and do not relieve employers from complying with applicable laws and regulations.

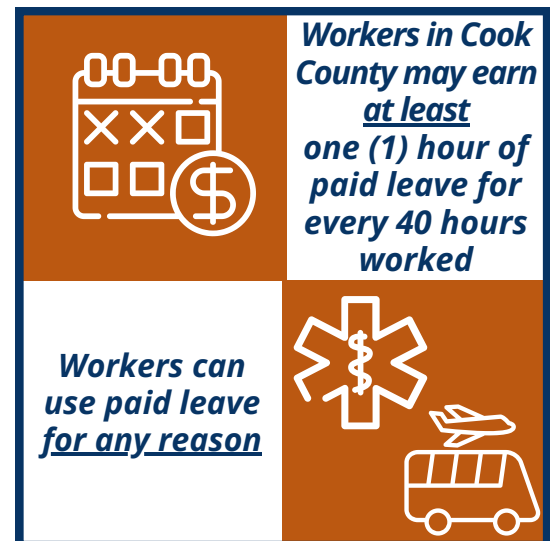
### General Information

**Q1:** When does the Cook County Paid Leave Ordinance ("Paid Leave Ordinance") go into effect?

The Paid Leave Ordinance went into effect on December 31, 2023. The Cook County Commission on Human Rights begins enforcement of the Paid Leave Ordinance on February 1, 2024. Complaints based on the Paid Leave Ordinance may be filed with the Cook County Commission on Human Rights beginning February 1, 2024.

**Q2:** Does the Paid Leave Ordinance apply to part-time employees?

The Paid Leave Ordinance does not distinguish between part-time, full-time, or seasonal employees. Full-time and part-time employees are covered by the Paid Leave Ordinance. However, employees who work fewer hours may accrue less leave time compared to full-time employees.



Effective Date 12/31/2023

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**Q3.** My company already offers employees 40+ hours of paid leave. Does my policy need to comply with the other requirements of the Paid Leave Ordinance?

If your company has an existing leave policy that provides the minimum amount of leave required by the Paid Leave Ordinance (40 hours) in a 12-month period, or more than the minimum required, and your employees can use that amount of leave for any reason of their choosing, you do not need to modify the terms of your policy.

**Q4.** What does this ordinance mean for temporary employees who work for Third-party clients?

Staffing agency employers are required to meet the minimum requirements provided under the Paid Leave Ordinance. Staffing agency employers of day and temporary laborers are not exempted from the Paid Leave Ordinance.

**Q5.** Must paid leave provided under the Paid Leave Ordinance be paid out upon an employee's termination, resignation, or retirement?

The Paid Leave Ordinance does not generally require payout of unused paid leave unless the leave is credited to the employee's paid time off bank or employee vacation account. Employers should additionally consider their vacation payout obligations under the Illinois Wage Payment and Collection Act. For example, an employer provides 40 hours of sick leave and 40 hours of vacation time. In this example, any unused vacation time must be paid out. Unused sick leave would not be required to be paid out.

**Q6.** If a municipality opted out of the Earned Sick Leave Ordinance, is it required to comply with the Paid Leave Ordinance?

Yes, prior opt out of the Earned Sick Leave Ordinance does not apply to the Paid Leave Ordinance.

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**Q7.** How does the Paid Leave Ordinance impact local governments with police and fire personnel, and other employers with concerns about coverage?

The Paid Leave Ordinance does not prohibit an employer from adopting an evenly applied paid leave policy to allow it to address operational issues and meet safety objectives. Employers of unionized employees can also address these concerns through collective bargaining.

**Q8.** Can I deny an employee's use of paid leave under this ordinance?

Employers may adopt policies that establish some parameters for taking leave (e.g. notice requirement, etc.) and limited reasons the employer may deny leave for operational necessity. Any such policy must be communicated to employees, applied equally to all employees, and conform with other applicable state and federal laws.

**Q9.** At what increment can employees use paid leave under this ordinance?

Employees shall determine how much paid leave they need to use. However, employers may set a reasonable minimum increment for the use of paid leave not to exceed 2 hours per day. If an employee's scheduled workday is less than 2 hours, the employee's scheduled workday shall be used to determine the amount of paid leave.

**Q10.** If an employer's policy requires employees to use paid time off in 4 hours increments, do they need to amend their policy?

Employees shall determine how much paid leave they need to use. However, employers may set a reasonable minimum increment for the use of paid leave not to exceed 2 hours per day. If an employee's scheduled workday is less than 2 hours per day, the employee's scheduled workday shall be used to determine the amount of paid leave.

# Cook County Paid Leave Ordinance

## FREQUENTLY ASKED QUESTIONS

**Q11.** Can an employer front-load paid leave time at the beginning of the year?

Yes, at the beginning of the year, an employer may front-load paid leave time by (1) making available the minimum number of hours of paid leave for a full year as required under the Paid Leave Ordinance or (2) a proportion of hours.

**Q12.** When does accrual begin under the ordinance? When can employees start taking paid time off?

Paid leave shall begin to accrue at the start of employment or on December 31, 2023 (the effective date of the Paid Leave Ordinance), whichever is later. Employees shall be entitled to begin using paid leave 90 days after the start of their employment or 90 days after December 31, 2023 (the effective date of the Paid Leave Ordinance), whichever is later.

**Q13.** How does accrual apply to employees who work more than 40 hours in a week, but are exempt from the overtime requirements of the federal Fair Labor Standards Act?

Employees who are exempt from the overtime requirements of the federal Fair Labor Standards Act (29 U.S.C. 213(a)(1)) shall be deemed to work 40 hours in each workweek for purposes of paid leave time accrual if they regularly work 40 or more hours in a workweek. If such employee's regular workweek is less than 40 hours, their paid leave time accrues based on the number of hours in their regular workweek

**Q14.** Since the Paid Leave Ordinance is replacing the Earned Sick Leave Ordinance on 12/31/23, for employees that currently have accrued sick time balances, do they lose their accrued sick balance and then need to accrue 40 hours of paid leave to use? Are we required to convert their sick balances to their paid leave balance?

The Cook County Paid Leave Ordinance does not require employers to convert accrued sick leave into paid leave. However, an employer may choose to allow employees to carry over some or all unused paid sick leave from this year into 2024.

# Cook County Paid Leave Ordinance

## FREQUENTLY ASKED QUESTIONS

**Q15.** If an employer front-loads an employee's paid leave at the beginning of the 12-month period, and the employee uses all their paid leave and then quits before the end of the 12-month period, can the employer make the employee repay the paid leave?

No, and employer may not seek compensation from employees for front-loaded time used.

**Q16.** How can an employer track the time required under this ordinance, versus other benefit time given to the employee?

The Paid Leave Ordinance requires employers to maintain records documenting hours worked, paid leave accrued and taken, and remaining paid leave balance for each employee for a period of not less than 3 years. The Paid Leave Ordinance does not otherwise require employers to use a particular record-keeping method.

**Q17.** How does carry over, also known as "roll over," work under this ordinance?

Employees are allowed to carry over or roll over unused, accrued leave from one year to the next under this law. However, there is no obligation for the employer to offer more than 40 hours of paid leave in a year. An employer may offer more than the 40 hours of paid leave if they choose.

**Q18.** What rate of pay do we use to pay our tipped employees if they use a day of paid leave?

If tipped employees use paid leave, they should be compensated at the rate of Cook County's current non-tipped minimum wage. Starting on January 1, 2024, that will be \$14.00/hour.

# Cook County Paid Leave Ordinance

## FREQUENTLY ASKED QUESTIONS

**Q19.** Is there a difference between “vacation” and “paid time off (PTO)”?

Paid time off is synonymous with paid leave. Paid time off can be used for any reason, or no reason at all, but may not be required to be paid out to an employee upon separation. A difference for “vacation” is that it is subject to pay out pursuant to Section 4 of the Wage Payment and Collection Act

**Q20.** How will the Paid Leave Ordinance interact with the Family and Medical Leave Act of 1993 (FMLA)?

FMLA entitles eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. Employees going on FMLA may use paid leave concurrently during their FMLA leave. More information regarding FMLA is available on this webpage: <https://www.dol.gov/agencies/whd/fmla>.

**Q21.** How does the Paid Leave Ordinance interact with other unpaid leave protections?

An employee covered under the Paid Leave Ordinance is entitled to use paid leave before using unpaid leave under any employer policy or other state law.

**Q22.** When will Cook County have rules in place for this ordinance?

The Cook County Commission on Human Rights will review procedural rules regarding this ordinance in January 2024 and shortly thereafter refer them to the Cook County Board of Commissioners for additional review in February 2024.

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**Q23.** The Paid Leave Ordinance states that accrued time must be provided at a rate of 1 hour paid leave for every 40 hours worked. Can an employer provide paid leave on an hourly rate, such as .025 hours of paid leave per hour worked?

Yes, employers can use smaller, proportional accrual rates as long as the benefit equates to one (1) hour of paid leave for every forty (40) hours worked.

**Q24.** I work in the City of Chicago, does the Cook County Paid Leave Ordinance apply to me?

The City of Chicago has enacted their own ordinance, which includes sick leave and paid leave. The City of Chicago's Office of Labor Standards, within Business Affairs and Consumer Protection, will enforce this ordinance so more information can be found here:

[https://www.chicago.gov/city/en/depts/bacp/supp\\_info/office-of-labor-standards.html](https://www.chicago.gov/city/en/depts/bacp/supp_info/office-of-labor-standards.html).

**Q25.** I work outside of Cook County, somewhere else in Illinois, does the Cook County Paid Leave Ordinance apply to me?

Illinois passed the Illinois Paid Leave for All Workers Act (PLAWA), effective January 1, 2024. Information on this law can be found here:

<https://labor.illinois.gov/faqs/paidleavefaq.html>.