



Cook County Commission on Human Rights

Cook County Paid Leave Ordinance

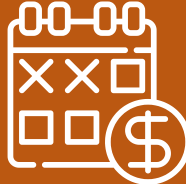

FREQUENTLY ASKED QUESTIONS

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 began 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.

	Workers in Cook County may earn <u>at least</u> one (1) hour of paid leave for every 40 hours worked
Workers can use paid leave <u>for any reason</u>	

Effective Date 12/31/2023

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.

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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 (1 hour for every 40 hours worked) 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, retirement, or other separation?

The Paid Leave Ordinance requires employers to pay the value of unused paid leave if the leave is credited to the employee's paid time off bank or employee vacation account. Payout of paid leave credited to an employee's paid time off bank or employee vacation account is required within 15 days of the employee's termination, resignation, retirement, or other separation.

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. Section 500.400 (Reasons for Denial of Paid Leave Requests) of the Interpretative and Procedural Rules Governing the Cook County Paid Leave Ordinance provides further guidance on this question.

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. 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.

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Q11. When does accrual begin under the ordinance? When can employees start taking paid time off?

Paid leave shall begin to accrue on the first calendar day after 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.

Q12. 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

Q13. Since the Paid Leave Ordinance replaced the Earned Sick Leave Ordinance on 12/31/23, for employees that have accrued sick time balances, do they lose their accrued sick balance and then need to accrue paid leave to use? Are employers 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 accrued sick leave from 2023 into 2024. Employers who choose to keep sick leave and paid leave should be mindful of their obligations under the Paid Leave Ordinance and Illinois Wage Payment and Collection Act.

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Q14. 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.

Q15. 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.

Q16. 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. Employers may cap how much time an employee can roll over from year to year. A cap on how much unused time an employee may carry over shall not be less than 40 hours.

Q17. 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.

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Q18. Is there a difference between “vacation”, “paid time off (PTO)”, and paid leave required under this Ordinance?

Vacation, paid time off, and paid leave under the Ordinance may all be used by employees for any purpose. Employers may choose how to categorize paid leave required under the Ordinance as (1) paid time off (PTO), (2) vacation time, or (3) an alternative bank (for example, paid leave bank). Time credited to an employee’s paid time off bank or vacation bank is required to be paid out under this Ordinance. Employers are not required to pay for unused time that is not credited to a vacation bank or paid time off (PTO) bank.

Q19. 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>.

Q20. 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.

Q21. When will Cook County have rules in place for this ordinance?

On March 14, 2024, the Cook County Board of Commissioners approved the Interpretative and Procedural Rules Governing the Cook County Paid Leave Ordinance (“Paid Leave Rules”). They can be accessed here: [Paid Leave Procedural Rules](#).

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Q22. 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.

Q23. 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.

Q24. 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>.

Q25. Can staff of the Commission give individual legal advice or render advisory opinions to individual employers?

The staff of the Commission does not have the authority to give individual legal advice or render advisory opinions to individual employers. However, the staff appreciates these efforts on the part of conscientious employers. In an effort to facilitate broad compliance, the staff of the Commission will provide frequently asked questions in the Downloads section of this page.

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Q26. What are some examples of violations of the Paid Leave Ordinance?

- Awarding employees fewer hours of Paid Leave than they should receive based on the number of hours they worked for the Employer in Cook County.
- Preventing employees from using Paid Leave for a purpose permitted by the Ordinance.
- Under-compensating employees during paid leave taken pursuant to the Ordinance.
- Failing to notify employees of their rights under the Cook County Paid Leave Ordinance.
- Failing to post a notice advising of the right to Paid Leave under the Cook County Paid Leave Ordinance (in a conspicuous place at each facility where any Employee works that is located within the geographic boundaries of Cook County).
- Firing an employee who is considering filing a Paid Leave complaint or otherwise cooperating with a Commission investigation.

Q27. If an employee receives differential pay, what is the rate of pay required by the Cook County Paid Leave Ordinance?

In situations where employees work different shifts and receive differential pay, the rate of pay for paid leave should be equivalent to their hourly or base pay. Employers are not required to pay the shift differential rate.

Q28. Can an employer choose to pay out earned paid leave at the end of a 12-month period instead of rolling it into the following year?

An employer may establish a policy that gives employees an option to have unused, accrued paid leave time paid out at the end of the 12-month period instead of carrying it over into the next 12-month period. However, any such policy must be in writing, note that it is optional, and employees must be allowed to choose whether to have the unused, accrued paid leave time paid out or carried over into the next 12-month period. If the employee agrees to payout, then the agreement must be in writing and signed by both the employer and employee.