
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 THE DEPARTMENT 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:

Kenneth J. Meyer
Commissioner

Published:

Effective:

DRAFT OF PROPOSED RULES

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 Time Off and Paid Sick Leave and Safe Lave 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 or have other policies.

“Chapter” means Municipal Code of Chicago Chapter 6-130, as currently in force and hereafter amended.

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

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, day laborers who perform at least two hours of work for an employer while physically present within the geographic boundaries of the City are Covered Employees.

Rule PTO 1.03 Notice and Posting

- a. Employers shall post the notice prepared by the Department through the Employers’ usual methods of communication for such notices, whether by paper posting or by electronic dissemination through the Employers’ internal communication channels. When posting a paper notice, the notice shall be printed on and scaled to fill a sheet of paper that measures eleven inches by seventeen inches.
- b. The notice Employers provide with the first paycheck subject to the Chapter advising the Covered Employee of their rights under the Chapter shall be printed on and scaled to fit a sheet of paper that measures 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, electronic mail and dissemination through internal communication channels.

- c. The notice Employers provide with the first paycheck shall be provided yearly with the first paycheck on or following July 1, whether by paper or electronic means as stated above.
- d. All notices shall be posted in English. An Employer shall request and post notices in other languages if a significant portion of its workers are not literate in English.

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 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.
 - 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 Time Off.
 - 6. Date each Covered Employee was eligible to use Paid Sick Leave and Safe Leave.
 - 7. Number of hours of Paid Time Off accrued by or awarded to each Covered Employee.
 - 8. Number of hours of Paid Sick Leave and Safe Leave accrued by or awarded to each Covered Employee.
 - 9. Dates and number of hours each Covered Employee used Paid Time Off.
 - 10. Dates and number of hours each Covered Employee used Paid Sick Leave and Safe 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. Additions and deductions from each Covered Employee's Wages for each pay period and an explanation of additions and deductions.
 - 15. Dates of payment of each pay period covered by each Wage payment to each Covered Employee.

- (b) If the Commissioner reasonably 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 – RULES APPLICABLE TO BOTH PAID LEAVE AND PAID SICK LEAVE

Rule PTO 2.01 General

- a. The Chapter 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. However, other requirements of the Chapter, such as when a Covered Employee must be allowed to begin using Paid Leave or Paid Sick Leave, must still be followed.

- b. It is a violation of the Chapter to change 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 Receive Commission

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 applicable minimum hourly Wage, whichever is greater.

Rule PTO 2.03 Accrual

- a. A Covered Employee shall begin accruing Paid Leave and Paid Sick Leave on January 1, 2024, or on the first calendar day of employment.

- b. Only hours worked within the City of Chicago count toward accrual of Paid Leave.
- c. A Covered Employee who works on Commission and whose hours are not tracked shall accrue Paid Leave as a salaried Covered Employee would.
- d. Employers are not required to allow accrual of Paid Leave during a Covered Employee's use of any paid or unpaid leave.
- e. Employers shall keep track of hours worked by non-salaried Covered Employees in order to ensure proper accrual.

Rule PTO 2.04 Accrual Versus Immediate Grant/Frontloading

- 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. Frontloading 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.
- 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, and at the same time each subsequent year, 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 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.

Rule PTO 2.05 Carryover

- a. Paid Leave
 - i. 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 unused accrued Paid Leave into the next Benefit Year.
 - ii. If a Covered Employee carries over unused accrued Paid Leave to the following year, accrual of Paid Leave in the subsequent year shall be in addition to the hours accrued in the previous year and carried over.
- b. Paid Sick Leave
 - i. Unless an Employer frontloads in accordance with PTO 2.04(c), an Employer must allow the Covered Employee to carry over up to 80 hours of unused Paid Sick Leave into the next Benefit Year.

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

Rule PTO 2.06 Usage

- (a) Regardless of the number of Employees the Employer employs any Covered Employee is eligible to use:
 - (i) accrued Paid Leave by the 90th calendar day following the commencement of employment.
 - (ii) accrued Paid Sick 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.

An Employer that grants its Covered Employees greater Paid Leave hours than the Chapter requires may limit the Chapter-required usage parameters to the number of hours guaranteed by the Chapter.

Rule PTO 2.07 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 2.08 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.
- c. An Employer is not required to pay out any accrued and unused Paid Sick Leave upon a Covered Employee's termination, resignation, retirement, or other separation from employment.
- d. Except as detailed below, an Employer is required to pay out any accrued and unused Paid Leave upon a Covered Employee's termination, resignation, retirement, or other separation from employment. This payment be a part of the Covered Employee's final compensation at the Covered Employee's final rate of pay.

- i.Small Employers shall not be required to meet the requirements of PTO 2.10(d).

- ii. Medium Employers shall be limited to pay out a maximum of 16 hours accrued, unused Paid Leave until December 31, 2024, unless the Medium Employer sets a higher limit. On or after January 1, 2025, Medium Employers shall be required to pay the monetary equivalent of all unused, accrued Paid Leave.
- iii. A Covered Employee may request payout of their unused Paid Leave after not receiving a work assignment for 60 days.

Rule PTO 2.09 Paid Leave Usage Policy and Notification Policy

- a. An Employer may establish and adopt a reasonable written Paid Leave and Paid Sick Leave policies.
 - i. The Paid Leave and Paid Sick Leave policies shall be made available in English and in any additional language commonly spoken by a Covered Employee of the Employer;
 - ii. The Paid Leave and Paid Sick Leave policies may be a part of an employer manual, employer handbook, or a separate document;
 - iii. The Paid Leave policy may require a Covered Employee to give reasonable notice, which may not exceed seven days before using such Paid Leave;
 - iv. The 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. Denials of Paid Leave requests in consideration of operation needs should include relevant factors such as:
 - i. Whether the Employer provides a need or service critical to the health, safety, or welfare of the people of Chicago; and
 - ii. Whether similarly situated employees are treated the same for the purposes of reviewing, approving, and denying Paid Leave; and
 - iii. Whether granting Paid Leave during a particular time period would significantly impact business operations; and
 - iv. Whether the Covered Employee has adequate opportunity to use all Paid Leave time the Covered Employee is entitled to over a 12-month period.
- 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. Examples of such methods include:
 - i. Notifying their immediate Supervisor in writing or verbally
 - ii. Calling a designated phone number at which a Covered Employee can leave a message
 - iii. Following a uniform-call in procedure
 - iv. Sending an e-mail to a designated e-mail address
 - v. Submitting a leave request in a scheduling software system
 - vi. Use of another reasonable and accessible means of communication identified by the Employer

- b. An Employer may restrict a Covered Employee's use of Paid Leave or Paid Sick Leave
- c. Employers shall provide Covered Employees with written notice of the Employer's Paid Leave and Paid Sick Time Policies (including notification requirements) at the commencement of employment and within five (5) calendar days before any changes to the Employer's Paid Leave and Paid Sick Time policies requirements

"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.

Rule PTO 2.10 Available Paid Leave Written Notification

- a. Employers may choose a reasonable system for providing the notification 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 employee on pay stubs (e.g. regular payroll statements); developing an online system where employees can access such information; or providing a hand-written record of available time (as long as copies of the records are kept in compliance with this Chapter)
- b. Employers are 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 to a Covered Employee of the benefits at the beginning of the Benefit Year.
- d. Employers who frontload are obligated to keep their Covered Employees apprised of their available and used benefits in accordance with Section 6-130-050.

Rule PTO 2.11 Certification

Section 6-130-030(i)(3) provides that an Employer may require certification for the use of Paid Sick Leave if a Covered Employee is absent for more than three 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 work days 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.

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 denied the Employee requirements under the Chapter may file a complaint with the Department.

- i. A complaint may be submitted through any one of the following methods:
 - a. Call 311
 - b. Use the CHI 311 mobile application
 - c. 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: <http://www.chicago.gov/laborstandards>.
 - d. Download and email the complaint to the Office of Labor Standards at bacplaborstandards@cityofchicago.org.
- ii. Information on the complaint form should adequately state the basis of the complaint.
- iii. The Department has the power to conduct investigations upon receipt of a complaint or at the discretion of the Director of the Office of Labor Standards. Complaints shall be reviewed by the Department to determine whether there is cause for investigation.

- iv. All complaints shall be filed within 3 years after the alleged violation.
- v. The complainant shall provide documents supporting 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.
- vi. The Department shall conduct investigation and enforcement actions in full compliance with due process.
- vii. The Department may attempt to resolve the complaint by conference, voluntary mediation, conciliation, or persuasion.

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.