

RULES FOR SAFE AND SICK LEAVE POLICIES

An employer's safe and sick leave policy must meet or exceed the requirements of the Paid Safe and Sick Leave Law. In addition to providing employees with the Notice of Employee Rights in English and, if applicable, in their primary language, employers that choose to require any of the following must include the requirement in their written safe and sick leave policies:

1. **Minimum daily increment.** Employers may set a minimum amount of safe and sick leave, not to exceed four (4) hours, that employees must use in a day. Employees should be notified of this minimum daily increment in the employer's written safe and sick leave policy.
2. **Advance notice requirement.** Employers may require that an employee provide up to seven (7) days of advance notice, in writing, of their need to use safe or sick leave for foreseeable reasons. If the need for sick or safe leave is unforeseeable, the employer may require an employee to give notice as soon as practicable. The procedures for employees to give notice must be included in the employer's written safe and sick leave policy.
3. **Documentation requirement.** Employers may require an employee to provide documentation *only after an employee uses more than three (3) consecutive workdays* as safe or sick leave and no less than seven (7) days after the employee returns to work. This documentation can confirm:
 - Need for the amount of safe or sick leave used
 - Safe or sick leave was used for an authorized purpose under the law

For sick leave, employers may require documentation from a licensed medical provider. *For safe leave*, employers may require reasonable documentation from social service provider, attorney, court, law enforcement, clergy member, or notarized letter by the employee indicating the need for safe leave. Employers may not require that the documentation specify the reason for safe or sick leave.

Employers must include in their written safe and sick leave policies the consequences when an employee does not provide documentation as required after the employee returns to work.

4. **Employee verification requirement.** For any amount of leave, employers may require employees to confirm that they used safe or sick leave for one of the purposes authorized under the Paid Safe and Sick Leave Law. An employer's written safe and sick leave policies should include procedures for employee verification, including any required form. (A model form is provided on the Department of Consumer Affairs' Paid Sick Leave website at nyc.gov/PaidSickLeave.)
5. **Front-loading.** If employers elect to front-load safe and sick leave so that all employees start the employer's calendar year with 40 hours of safe and sick leave, they should include it in their written safe and sick leave policy.
6. **Payout of unused safe and sick leave.** An employer's payout policy (if applicable) must be included in the written safe and sick leave policy. Employers may pay out up to 40 hours of unused safe and sick leave at the end of the employer's calendar year, only if the employer front-loads 40 hours of safe and sick leave at the beginning of the new calendar year. Employers may also pay out unused safe and sick leave upon the end of an employee's employment. Employers are never permitted to pay out safe and sick leave as it accrues since that would leave employees without an opportunity to take off from work to care for themselves or for family members.

7. **Donation of unused safe and sick leave.** Employers who permit employees to donate unused safe and sick leave to other employees should include procedures for how to do this in their written safe and sick leave policies.
8. **A note about other leave policies.** If an employer provides employees time off for other purposes, such as vacation or personal leave, the employer does not have to provide additional time designated for safe and sick leave if employees can use that time off for safe and sick leave and the employer's policies meet the other requirements of the Paid Safe and Sick Leave Law. Employers in this situation still have to provide employees with the Notice of Employee Rights and may want to attach a memo that explains how employees can use their time off for safe and sick leave.