



Executive Order 13706

Paid Sick Leave for Workers on Federal Contracts – Final Rule



U.S. Secretary of Labor Thomas Perez has traveled across the country to talk with CEOs, workers caring for family members, and local elected officials about paid leave, including earned sick time. Above, he is shown with Imar Hutchins and staff of the Florida Avenue Grill, which offers paid sick time to its employees.

“Part of the basic bargain of America is that if you work hard, you should be able to support your family. Paid sick leave can help workers be there for their families when they really need them – to take an elderly parent to a doctor’s appointment or stay home with a young child with a fever. It can allow working families to focus on what really matters without having to worry about the next paycheck.”

—U.S. Secretary of Labor Thomas E. Perez

Overview and Summary

Today’s working families must be responsible to their jobs, their families, their communities and their own health. But while illness and injury are natural occurrences—bound to hit all households—too many of today’s workplaces impose unnatural choices on workers—to choose between caring for a loved one or getting a paycheck when illness or injury strikes. More than a third (36 percent) of the private-sector workforce—an estimated 41 million workers—do not have paid sick leave.

That leaves American workers facing impossible choices about how to balance obligations at home and on the job. Taking time off to go to the doctor can mean missing out on wages or running the risk of getting fired. It can mean being at work instead of being with an aged parent at the hospital or delaying a recommended medical screening. It can mean putting sick kids on the school bus instead of staying at home with them, much less taking them to the pediatrician. Moreover, a lack of access to paid sick time is not just difficult for working families; it poses a health risk to our communities and undermines employee performance in the workplace.

Whether it’s a coworker in the office or a server in a restaurant, when workers have no choice but to work when they are sick, they run the risk of exposing colleagues and customers to contagious illness.

President Obama has called upon Congress to act to provide all workers access to paid sick leave; he has also moved in this direction by acting to ensure that workers on many federal contracts will be guaranteed access to paid sick time. Each year, federal contractors and subcontractors receive billions of dollars, funded by taxpayers, to provide services and perform construction work for government agencies that are tasked with doing work for the American people. In September 2015, President Obama signed Executive Order 13706, which will provide covered federal contract workers the ability to earn paid sick time—up to at least seven days a year. The Department of Labor (DOL) published a Notice of Proposed Rulemaking on February 25, 2016. DOL received more than 56,000 comments, all of which were carefully considered in development of the Final Rule.

This EO and the Final Rule will:

- **Provide paid sick leave to an estimated 1.15 million employees** of federal contractors when the rule is fully implemented, including an estimated 594,000 employees who currently receive no paid sick leave.
- **Provide economic security to working families** by allowing employees to earn paid time off—rather than risk losing a paycheck or a job—when the employee, a family member, or another loved one is sick or injured, needs preventive care, or is the victim of domestic violence, sexual assault, or stalking.
- **Improve the health and performance of employees** of covered federal contractors and bring benefits packages offered by those federal contractors in line with leading firms, ensuring they remain competitive in the search for dedicated and talented employees.
- **Protect the public health** of covered federal contractors' employees, customers, and clients by ensuring employees are able to stay home when they are sick.

The Department of Labor has now issued a Final Rule laying out the details of how the EO will be implemented. The Final Rule ensures workers get the leave they need in a way that is as easy as possible for employers to implement. In response to stakeholders' comments, the Final Rule ensures that employers have choices in how to best adapt the paid sick leave requirement to their businesses. For example, employers can choose to allow workers to accrue leave over time or to frontload leave for ease of administration. The Final Rule also includes flexibilities related to integration with employers' existing paid time off policies, leave provisions in existing collective bargaining agreements (CBAs), and requests for leave from workers for whom it is physically impossible to take short periods of leave.

Summary of the Final Rule:

- **Time accrued.** Employees will accrue 1 hour of paid sick leave for every 30 hours worked on or in connection with a covered federal contract, up to 56 hours (7 days) in a year or at any point in time.
- **Uses of paid sick time.** Employees may use paid sick leave while working on or in connection with a covered federal contract for:
 - Their own illnesses or other health care needs, including preventive care;

- The care of a family member or loved one who is ill or needs health care, including preventive care; or
 - Purposes resulting from being the victim of domestic violence, sexual assault, or stalking—or to assist a family member or loved one who is such a victim.
- **Coordination with existing PTO policies.** The rule provides flexibility to allow employers to adopt paid time off (PTO) policies that reflect a fundamental feature: flexibility for workers and employers. Leave is drawn from one bank of time, without regard to the purpose of the time off. The preamble makes clear that contractors do not need to provide an additional 56 hours of leave (or a separate paid sick leave benefit) on top of their PTO plans—as long as their policies “are equivalent to or more generous than those described in the Order and [the rule].” The rule contains numerous examples to describe how a PTO policy that provides more than 56 hours of leave each year can easily be coordinated with the leave required by the EO and Final Rule.
 - **Covered employers.** The Final Rule will apply to employers entering into new contracts (meaning the solicitation was issued or contract was awarded on or after January 1, 2017) that are contracts covered by the Service Contract Act or the Davis-Bacon Act, concessions contracts, and service contracts in connection with federal property or lands. That is, all contracts covered by [Executive Order 13658](#), Establishing a Minimum Wage for Contractors, will also be covered by this Final Rule.
 - **Coordination with existing CBAs.** The Final Rule does not apply to employees working on contracts covered by a collective bargaining agreement that provides at least 56 hours of paid sick time or paid time off that can be used for health-related reasons until January 1, 2020, or the date the CBA terminates, whichever is sooner. This grace period responds to commenters' requests for consideration of the inability of employers operating with CBAs to unilaterally amend existing paid sick leave policies.
 - **Multiemployer plans permitted.** The Final Rule permits contractors to fulfill their obligations under the rule jointly with other contractors by utilizing multiemployer plans to provide access to paid sick leave in accord with the Final Rule's requirements. This provision responds to requests for such permission from commenters.

- **Covered employees.** The Final Rule will apply to employees whose wages are governed by the Service Contract Act, Davis-Bacon Act, or Fair Labor Standards Act, including workers (such as white collar workers) who are exempt from the FLSA's minimum wage and overtime provisions. The Final Rule requires that employees be allowed to accrue and use paid sick leave only while working on or in connection with covered contracts (employers may choose to allow accrual and use during other periods of work).
- **Carry-over.** Employees can carry over up to 56 hours of unused paid sick leave from year to year while they work for the same contractor on covered contracts, and they generally get their unused leave back if they return to work within a year of leaving a job on a covered contract.
- **Cash-out.** Contractors will **not** be required to pay employees for any unused paid sick leave when they leave their jobs. But if a contractor chooses to provide cash-out payments, that contractor will not have to restore unused leave for a worker who leaves but later returns to his or her job.
- **Time used.** Employees can use as little as an hour of paid sick leave, or as much as all of the paid sick leave they have accrued, at a time. Employers do not have to allow workers to use leave in increments shorter than an hour.
- **Certification.** Employers may require that employees using paid sick leave provide certification from a health care provider (or documentation from another source, if the leave is for purposes related to domestic violence, sexual assault, or stalking) of the employees' need for leave if they use 3 or more days of leave consecutively. The Final Rule provides for a process by which employers may verify the certification provided.
- **Anti-retaliation.** Employers may not interfere with the accrual or use of paid sick leave and may not discriminate or retaliate against any employee for the exercise of rights under the EO or the proposed rule.
- **Consistent with existing law and regulations.** To facilitate implementation for contractors and ensure that the provisions are understandable for employers and employees, the Final Rule adapts provisions from existing law to the extent practicable. The rule adopts definitions from the regulations implementing EO 13658, Establishing a Minimum Wage for Contractors; the regulations implementing the Family and Medical Leave Act; and other existing laws, as appropriate. In addition, the enforcement process is based primarily on existing mechanisms for enforcing prevailing wage laws and the Minimum Wage Executive Order.

For more details, please see "**Fact Sheet: Final Rule to Implement Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors,**" and Frequently Asked Questions available at <https://www.dol.gov/whd/govcontracts/eo13706/>.