

WEBINAR SERIES: OCT 24 & NOV 7

Leave-apalooza

Expert insights on navigating leave policies, from your friends at:



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Legal Updates and Trends in Paid and Sick Leave

October 24, 2024

Today's agenda

1 Paid Sick
Leave Rules

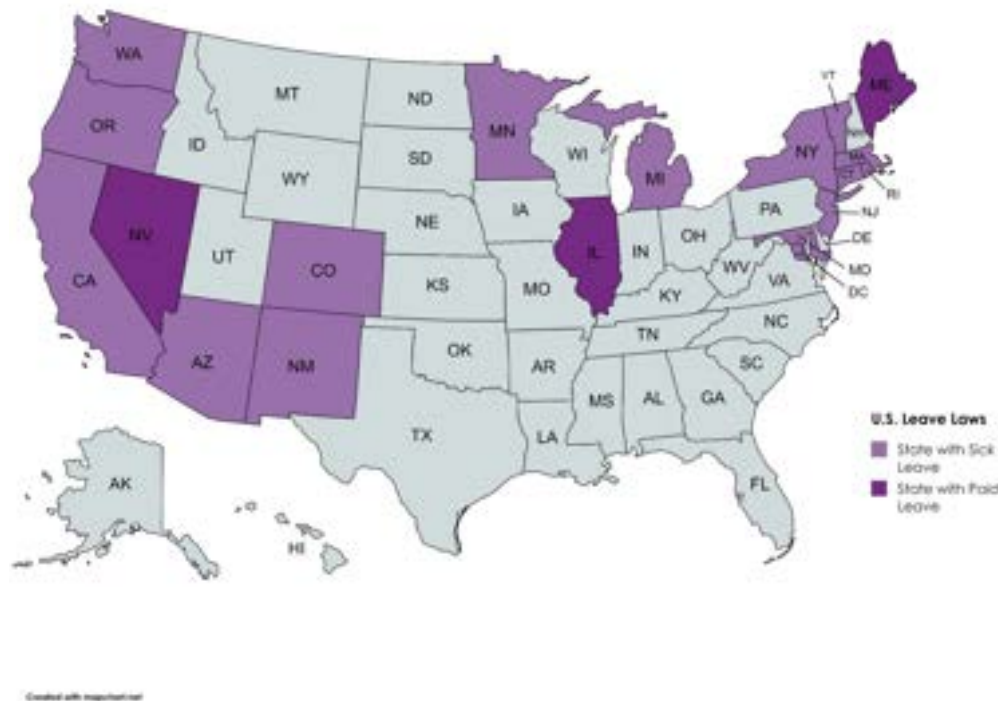
2 Paid Leave For
Any Reason

3 Paid Time
Off Rules

4 Unlimited/
Flexible Time
Off

Paid leave laws

- 15 States and D.C. with Sick Leave
- 22 Localities
- 3 States and 4 Localities with Paid Leave for Any Reason
- No Federal Sick or Paid Leave Law
 - Shocking [compared to the rest of world](#)
- PTO/Vacation Rules



In reality, 81% of U.S. employees have access to Paid Sick Leave

Sick leave: Accrual v. Frontloading

Employees can earn leave at a certain rate per hour worked or they can be provided all of their leave at once

	Amount	Carryover	Tracking	Policies
Accrual	<p>Employee earn a leave at a certain rate per hour</p> <p>Employees can only use leave after they have earned it</p>	<p>Some amount of earned leave usually needs to be carried over from one year to the next</p>	<p>Employers need to closely track hours worked to continuously provide employees with their leave entitlements</p>	<p>Governments provide notice of employee rights</p> <p>Employers may not need to provide a policy if they exactly follow the law</p>
Frontloading	<p>Employees get a lump sum of leave at the beginning of the year</p> <p>This amount may need to be added to if leave is uncapped</p>	<p>Leave usually doesn't need to be carried over because all necessary leave is frontloaded</p>	<p>Hours worked don't need to be closely tracked unless a state has uncapped leave</p>	<p>Employers usually need to provide employee with a notice or policy about leave being frontloaded</p>

*Leave taken usually needs to be tracked for record-keeping and compliance purposes.

Sick leave: Caps galore

Leave laws set different limits on how much leave can be earned, carried over, and used.

	California	New York	Washington
Yearly Use Cap	5 Days/40 Hours	40/56 Hours	Uncapped
Yearly Accrual Cap	5 Days/40 Hours	40/56 Hours	Uncapped
Rollover Cap	10 Days/80 Hours (None if frontloading)	Uncapped	40 Hours
Total Cap	10 Days/80 Hours	Uncapped	Uncapped

Paid leave for any reason

Employers can't ask for verification of leave use

Nevada

Employers with 50+ employees in Nevada must provide employees with up to 40 hours of paid leave per year

Employers are exempt during their first 2 years of existence

Maine

Employers with 11+ employees in Maine must provide employees with up to 40 hours of paid leave per year

Unless there is an emergency, employers can require 4 weeks of notice

Bernalillo Co., NM

Employers with a physical location and two or more employees within the unincorporated limits of Bernalillo County have to provide between 28-56 hours of paid leave per year




Illinois

All employers must provide employees with up to 40 hours of paid leave per year

Law enacted January 1, 2024

Exemption for localities with their own rules

Chicago paid leave and sick leave

-  Employers must give 40 hours of paid leave for any reason and 40 hours of paid sick leave per year (1 hour each for every 35 hours worked).
 - Los Angeles (Hotel worker) and West Hollywood also have paid leave and paid sick leave
-  Employees can carry over 16 hours of paid leave and 80 hours of paid sick leave each year.
 - If employers frontload paid leave for any reason, carryover isn't required. Sick leave must always carry over.
-  Chicago employers with 100+ covered employees must pay out unused paid leave (but not unused sick leave)
 - Starting July 1, 2025, employers with 51+ covered employees must pay out sick leave too. Until then, medium-sized employers only need to pay out up to 16 hours of unused paid leave.
 - If an employer offers unlimited paid time off, they must pay out the equivalent of 40 hours, minus any paid leave taken in the last 12 months.

Record-keeping and PTO rules

Record-keeping

Most leave laws require employers to keep a record of the amount of leave that an employee has earned and how much leave they have used.

These records must be provided to the government upon request.

Retention period varies by law but keeping between 1-3 years of records is common

PTO/Vacation payout

10 states require employers to payout leave upon separation

10 states and D.C. require employers to payout leave unless they have a written policy stating that leave is not paid upon separation

North Dakota also requires a new hire notice to not payout leave. Any employee who works for more than a year and provides at least 5 days notice of separation must be paid for their unused leave.

PTO/Vacation rollover

California, Colorado, and Montana require that employees be allowed to carry over all of their earned but unused pto/vacation time from one year to the next

Where laws are silent, the language of an employers policy controls rollover rules.

SixFifty Research

Hiring and Managing

Separation

Policies


Legal Updates

Privacy Laws

Privacy Request Responses

Privacy Legal Updates

Clause Library


Research

[Generate Policy Comparison Chart](#)

[Sick Leave Policy](#)
[Paid Leave for Any Reason](#)

Jurisdiction	Topic	Policy
Arizona	Jurisdiction Rules	Sick Leave Policy
California	Jurisdiction Rules	Sick Leave Policy
Colorado	Jurisdiction Rules	Sick Leave Policy
Connecticut	Jurisdiction Rules	Sick Leave Policy
District of Columbia	Jurisdiction Rules	Sick Leave Policy
Illinois	Jurisdiction Rules	Paid Leave for Any Reason
Maine	Jurisdiction Rules	Paid Leave for Any Reason
Maryland	Jurisdiction Rules	Sick Leave Policy
Massachusetts	Jurisdiction Rules	Sick Leave Policy
Michigan	Jurisdiction Rules	Sick Leave Policy
Minnesota	Jurisdiction Rules	Sick Leave Policy
Nevada	Jurisdiction Rules	Paid Leave for Any Reason

Using PTO to replace sick leave

- These laws set floors that employers must meet and employers can choose to be more generous by providing PTO to fulfill sick leave requirements.
- Employers must be sure that they are at least matching all aspects of the law.

Pros

- Simpler
- More easily managed
- More freedom for employees

Cons

- PTO policy is now subject to sick leave rule
- Record-keeping requirements
- Notice requirements

Unlimited/Flexible time off

Benefits

- Provides employees with more leave and flexibility
- Save HR time by making your leave easier to manage
- May avoid some legal requirements like carryover or payout
- Generally, unlimited time off isn't considered earned leave, so laws controlling earned but unused time off/ sick leave don't apply

Drawbacks

- Requires employee trust
- Employees usually take less leave overall
- Most laws aren't clear about how unlimited time off interacts with sick leave requirements
- Record-keeping can get messy or overlooked
- There can be issues if a policy presents unlimited time off but company culture discourages taking time off (McPherson v. EF Intercultural Foundation, Inc.)
 - Is leave actually unlimited?

The right option for your organization

- There is no “one size fits all” solution
- Consider Factors like:
 - Employee Count
 - Employee Locations
 - Employee Expectations
- Consider asking your employees what leave structure they would be interested in.

Thank you!

Help us uncover how HR teams are managing employment law compliance!

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Any questions?

Drop them in the Q&A panel in Zoom



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