



Bundling PTO and Sick Leave: Compliance Considerations

July 17, 2025

Today's agenda

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PTO for Sick Leave

2

Commonly
Overlooked
Details

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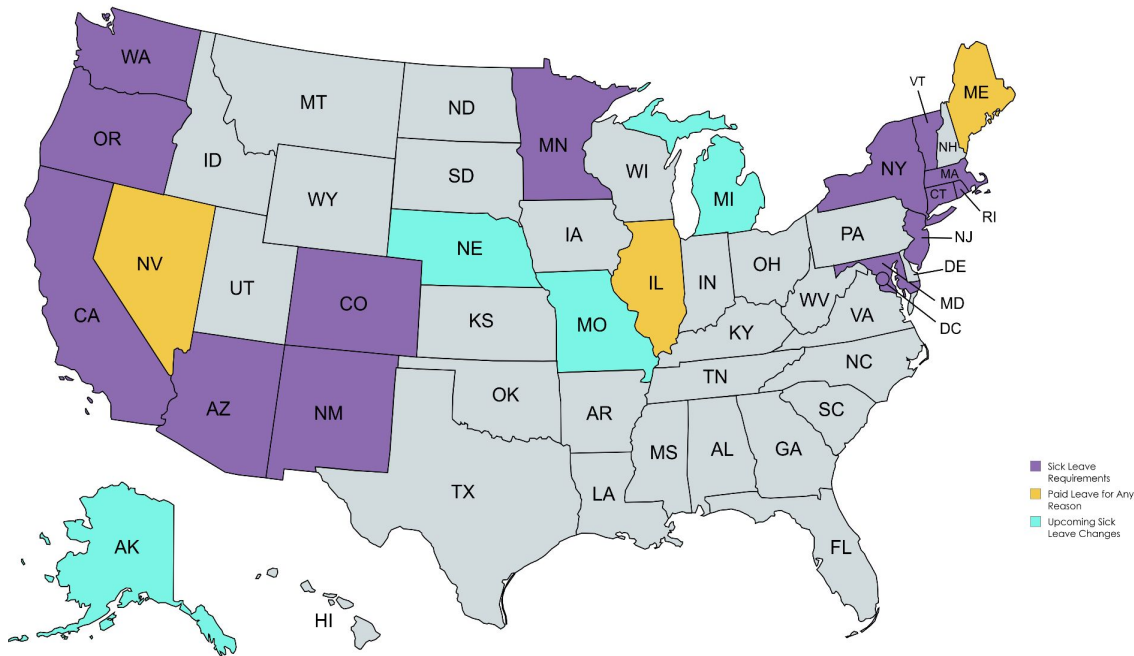
Caps, Rollover,
Payout

4

Recordkeeping
and Handbooks

Paid leave laws

- 17 states and D.C. currently require sick leave
- 3 states have upcoming sick leave requirements
- 22 localities require sick leave
- 3 states and 5 localities require paid leave for any reason
- No federal sick leave law
 - In reality, 81% of U.S. employees have access to Paid Sick Leave



Using PTO to replace sick leave

- State laws set the minimum requirements that employers must meet when using PTO to cover sick leave requirements,
- Employers typically choose to be more generous by providing more PTO than required by state sick leave laws.

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
- Saves HR time by making 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 clear communication from managers and a high degree of trust in employees
- Most laws aren't clear about how unlimited time off interacts with sick leave requirements
- Record-keeping can get messy or overlooked
- Organizations can face legal issues if they claim to provide unlimited time off but their culture discourages taking time off (McPherson v. EF Intercultural Foundation, Inc.)



Commonly-overlooked details

- Notices
- Waiting Periods
- Minimum Leave Increments
- Accrual vs. Frontloading

Many states require specific sick leave notices

When using PTO to cover sick leave, don't forget to provide required sick leave notices—they still apply.

1. Most states require employers to **post some form of notice** of sick leave rights in a place where employees can read it. (e.g., New York)
2. Many states require individual notice of sick leave rights to be provided **upon hire**. (e.g., California)
3. Some states require employers to provide notice of used and available leave on **employee pay stubs** every pay period. (e.g. Washington)
4. Minnesota requires that employers provide **individual or posted notice** of sick leave rights. The notice must also be **included in employee handbooks**, if the employer has one.

Waiting periods

Alaska

Employees must be allowed to use sick leave as soon as it is accrued.

Connecticut

Employees can start using sick leave on their 120th day of employment.

Massachusetts

Employers can require employees to wait until the 90th calendar day after being hired to start using their accrued sick leave.

Maryland

Employers can require employees to wait until their 107th calendar day of work to start using their leave.





Quiz:

How long can employers require employees to work before they are allowed to use sick leave in Connecticut?

Minimum leave increments

- **Alaska:** hourly increments or the smallest increment used by the employer's payroll system to account for leave, whichever is smaller.
- **Minnesota:** the same increment of time for which employees are paid, but in no less than 15-minute increments. Employers can't require employees to take leave in more than 4-hour increments.
- **New Jersey:** Employers can choose in what increments employees can take leave, but they can't require an increment that is longer than the number of hours the employee was scheduled to work during a shift.

Sick leave: Amounts

Accrual

- Employees earn leave at a certain rate per work hour
- Employees can only use leave after they have earned it

Frontloading

- Employees get a lump sum of leave at the beginning of the year
- This amount may need to be added to if leave is uncapped



Sick leave: Carryover

Accrual

- Employees earn leave at a certain rate per work hour
- Commonly, that's 1 hour of leave per 30 hours worked
- Employees can only use leave after they have earned it

Frontloading

- Employees get a lump sum of leave at the beginning of the year
- Commonly, that's 40 hours
- This amount may need to be added to if leave is uncapped
- Leave is available immediately



Sick leave: Payout (PTO for sick leave)

Accrual

- Employees only need to be paid out for the hours they have earned

Frontloading

- Employees must be paid for all their unused leave



Quiz:

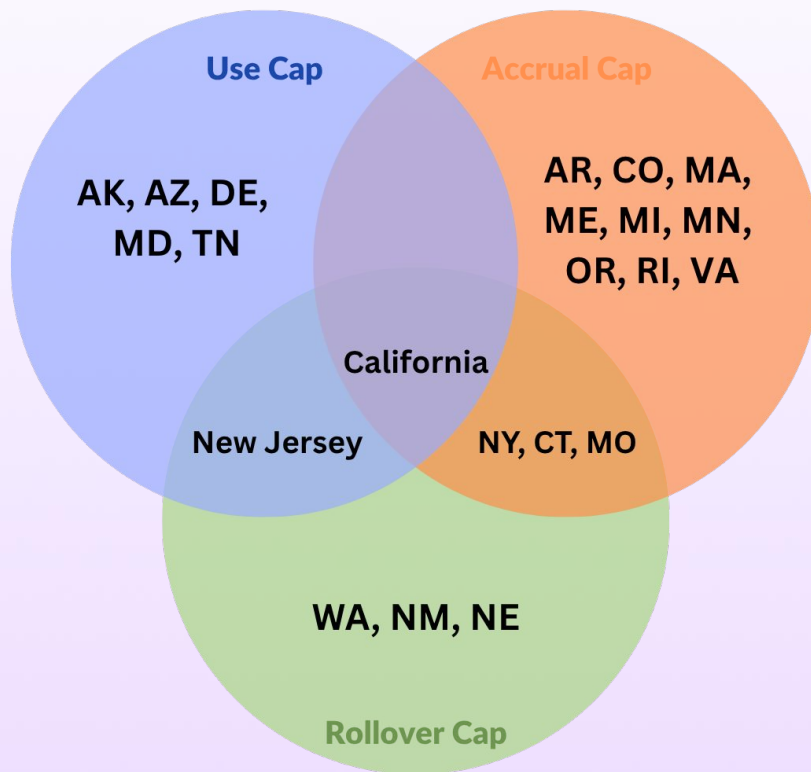
How many hours of sick leave must employees be allowed to roll over each year in New York?

Sick leave: Caps galore

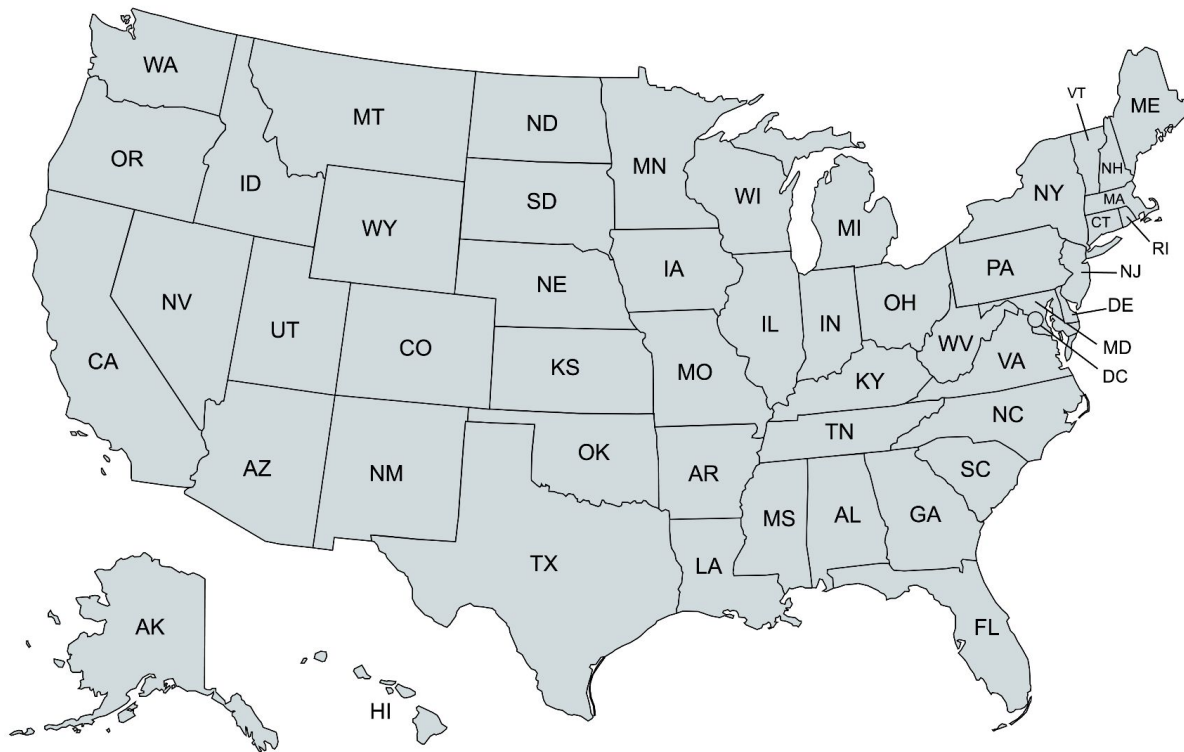
Leave laws set different limits on how much leave can be earned, carried over, and used.

	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

Sick leave caps, continued



What is the PTO payout requirement in *your* states?





PTO Rollover

In California, Colorado, and Montana, all earned but unused PTO *must be* carried over year-to-year.



Record-keeping requirements

Tracking Hours

Most accrual policies require hourly tracking to work

Even if you are frontloading leave, you may still need to track hours if there no accrual cap allowed.

You also need to make sure to track how much leave employees use so that you rollover the right amount and don't let employees use more leave than they've earned

Paystubs

Some states and localities require employers to inform employees about their available and used sick leave with each pay period.

California also requires PTO info if you use PTO replace sick leave. Also requires "Unlimited" note.

New Mexico requires quarterly updates

Required by: AZ, CA, CT, Chicago, MD, NV, NYC, Oregon, WA, Seattle, and Tacoma

Retention Periods

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



Poll:

Do you use state-specific addenda with your employee handbook?

Different ways to structure your employee handbook

Core + Addenda

Pros

Allows for a shorter core handbook when employers have employees in lots of states

Relatively easy to update when hiring an employee in a new state

Cons

Employees have to flip between core handbook and addenda

State Handbook

Pros

Simple

Easy to navigate and understand

Cons

Can get long if you have employees in multiple states

Applies different rules to employees in different states in one policy, which can be complex

All-in-one

Pros

Can help keep handbook easy to maintain and manage

Easier to get acknowledgments

Cons

Employees can see what benefits those in different states get

Employees have to sort through information that may not apply to them

Separate Handbooks

Pros

Handbooks can be shorter and easier for employees to navigate

Employees can't compare benefits across states

Cons

It can be a larger administrative burden to maintain multiple handbooks

Don't use this to hide differences in benefits

One universal policy to rule them all

A universal policy applies to employees in all states—and takes into account the most restrictive state and local laws.

Benefits

- The ultimate tool to help keep handbook short and easy to maintain when in many states
- Treats employees in different states uniformly
- Most effective for leave policies

Drawbacks

- Likely requires giving some employees more benefits than they are entitled to under state/local law
- Not all policies can or should be universal

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 handbook or leave structure they would be interested in.

SixFifty Handbook and PTO



← Core Handbook w/ Addenda Example ⓘ ☁

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Equal Employment Opportunity and P...

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Additional Enforcement Information

Sexual Harassment Policy

Scope

Definition of Sexual Harassment

Examples of Sexual Harassment

Targets of Sexual Harassment

Locations of Sexual Harassment

Reporting Sexual Harassment

SixFifty

EMPLOYEE HANDBOOK

June 02, 2025

STATE ADDENDA

In addition to the policies set forth in the Employee Handbook, these policies apply only to those employees working in the state(s) set forth below. Each state addendum should be read in addition to the Employee Handbook and only modifies the provisions included in the addendum.

In the event of any conflict between the Employee Handbook and the applicable Addendum, the applicable Addendum shall govern. Any questions about the Employee Handbook or the addendum can be directed to Human Resources at (801) 123-4567.

California

This addendum only applies to employees in California. This addendum is in addition to the Employee Handbook and only modifies the provisions included in the addendum.

Thank you!

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