

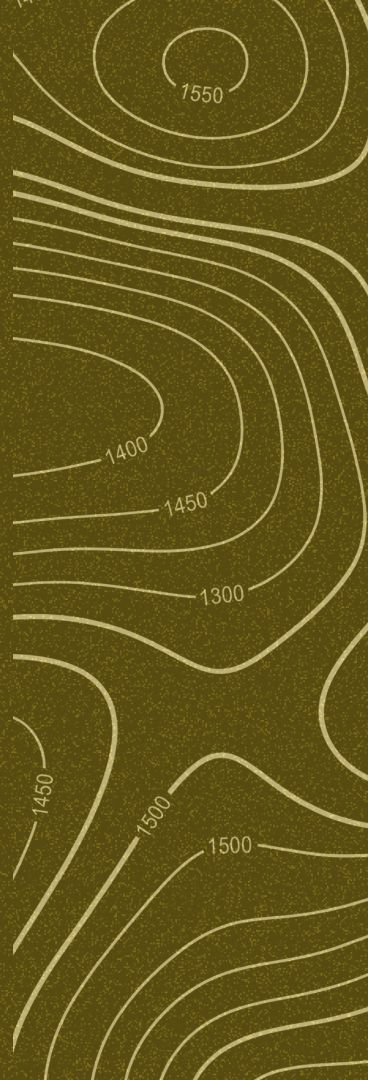


COMPLIANCE CAMP

Leave Policy Design



Compliance Obstacles to Navigate When Combining PTO

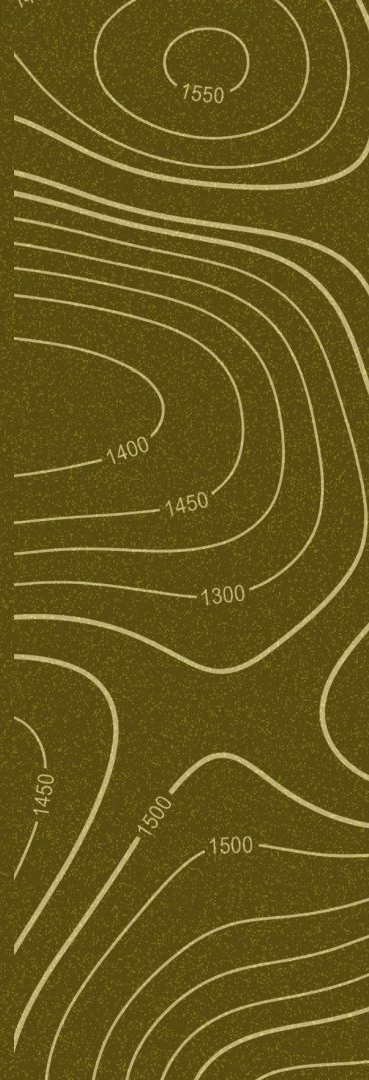




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MEET THE SPEAKERS



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AGENDA FOR TODAY

1 Covering Sick Leave Under Your PTO Policy

2 Caps, Rollover, and Payout Rules

3 Recordkeeping and Handbooks

4 Q&A

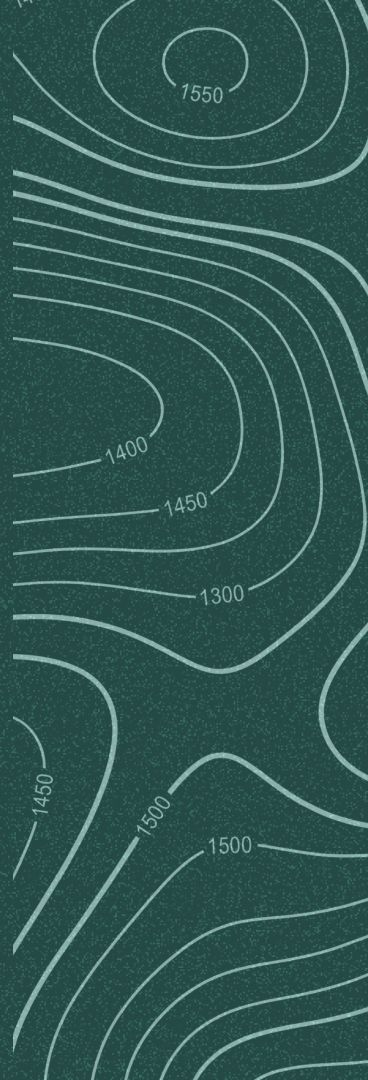
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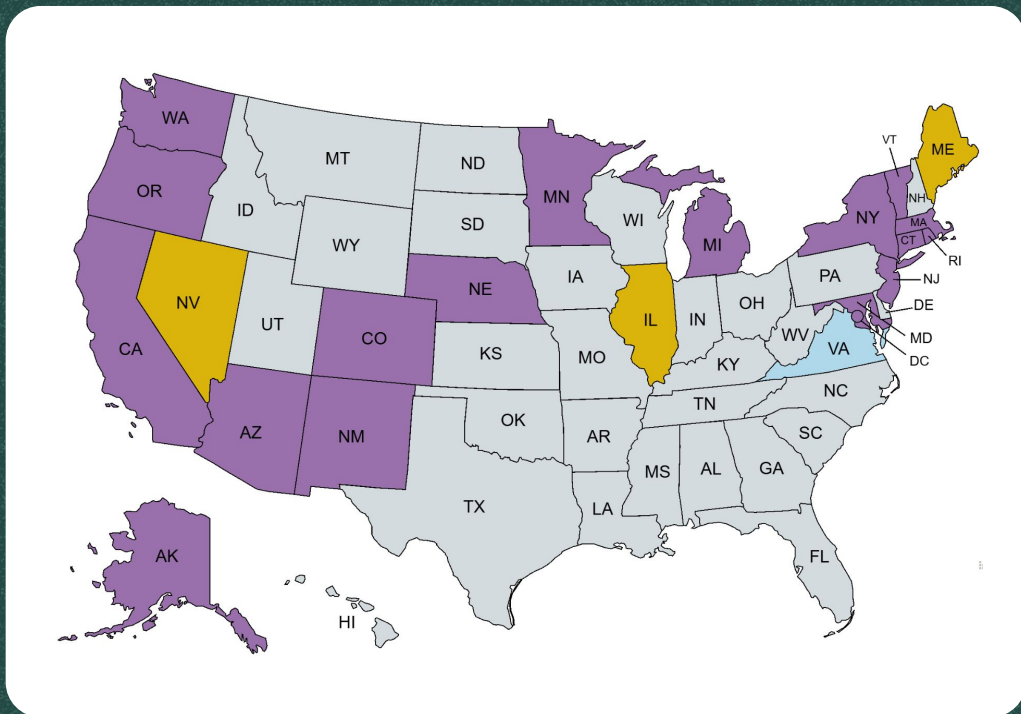
LEAVE POLICY DESIGN

Combining Sick Leave Under PTO



Paid leave laws

- 17 states and D.C. currently require sick leave
- VA will require it starting July 2027
- 21 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



Sick Leave Requirements

Paid Leave for Any Reason

Upcoming Sick Leave Requirements

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" or 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

Potential Obstacles

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

Recordkeeping can get messy, or overlooked altogether

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 that trip teams up

- 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

None

Alaska, Colorado, Minnesota, New Mexico, New York, & Nebraska

90 days

Arizona, California, Illinois, Massachusetts, Nevada, Oregon, Rhode Island, Washington, & Washington D.C.

120 Days

Connecticut, Maine, Michigan, & New Jersey

Other

Maryland—106 days
Vermont—365 days

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.

Min and max leave increments

Increment

Min (Floor): Smallest use employee must be allowed

Max (Cap): Largest minimum employer may require

1 hour

CO, CT, ME, OR, DC

AK, AZ, CO, CT, ME, MA, MI, NE, NM, OR, VT, WA, DC

Smallest payroll
increment

MD, VT, WA, MN

1 hr / smallest payroll
increment (whichever smaller)

AK, AZ, MA, MI, NE, NM, RI

Employee decides
(no floor)

CA, IL, NV

2 hours

CA, IL

4 hours

MD, MN, NV, NY, RI

Other / Not specified

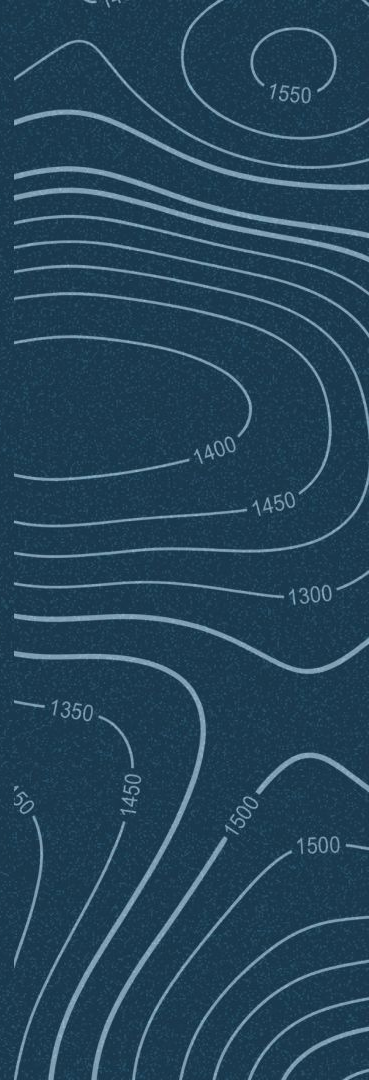
NJ, NY (employer's set increment governs)

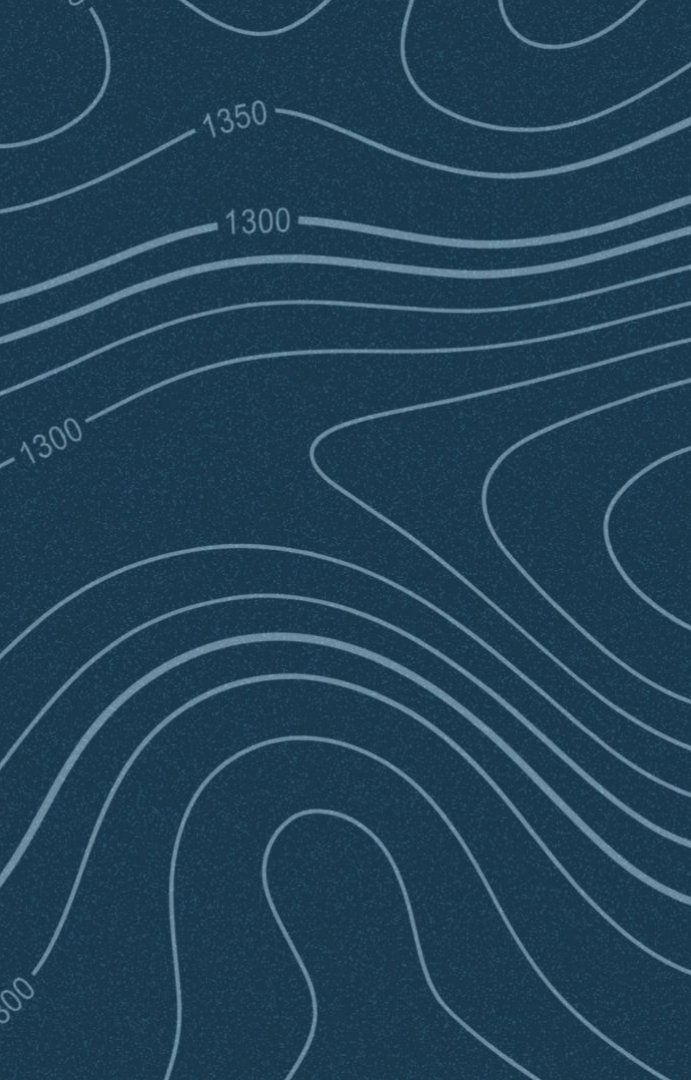
NJ (employee's scheduled shift length)



LEAVE POLICY DESIGN

Caps, Rollover, And Payout





Sick leave: Amounts

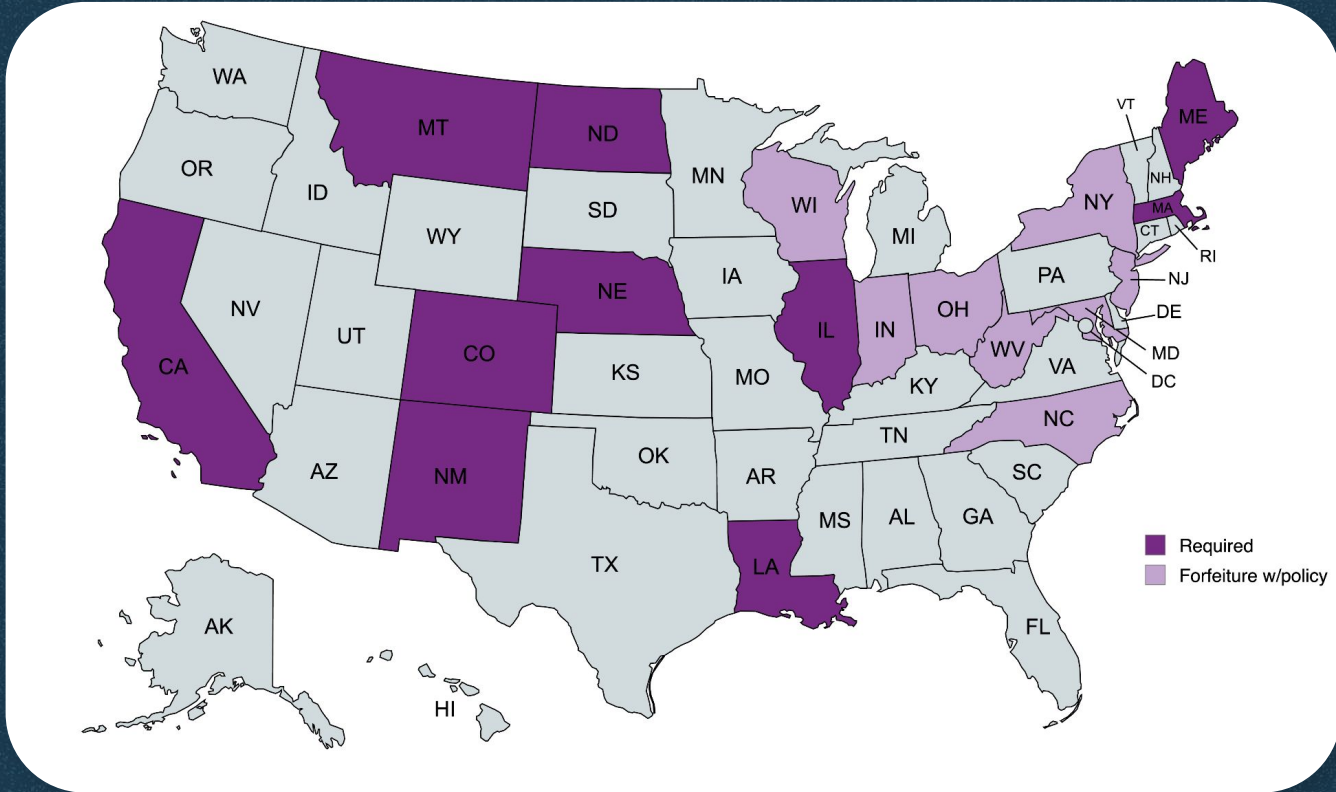
Accrual

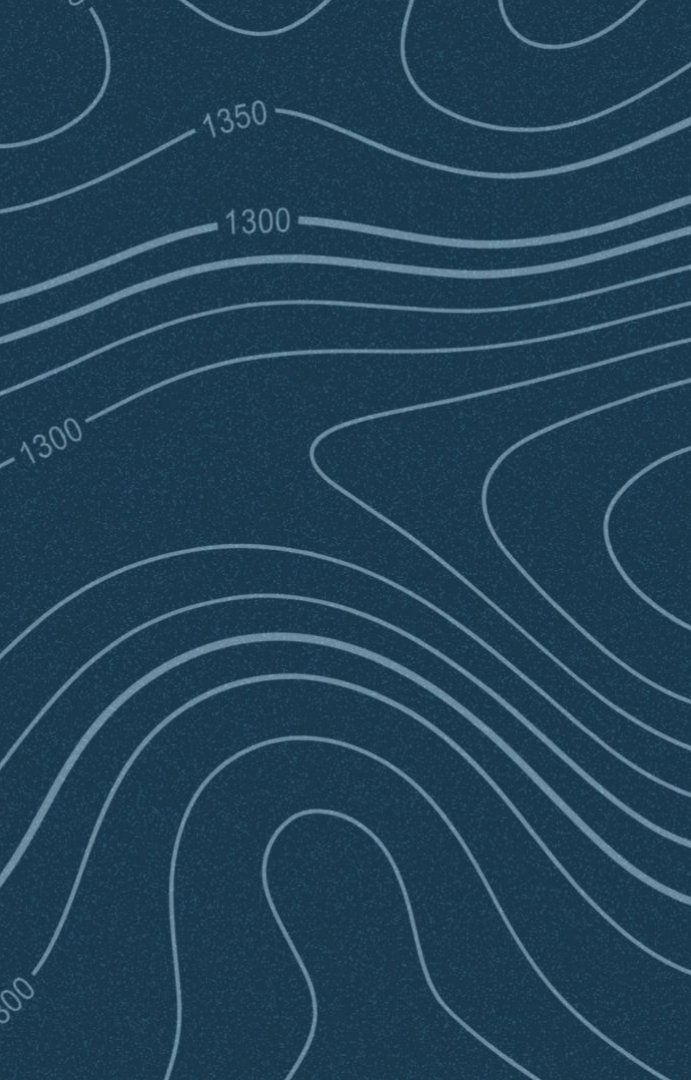
- Employees earn leave at a certain rate per work hour
- Employees can only use leave after they have earned it

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

PT0 payout





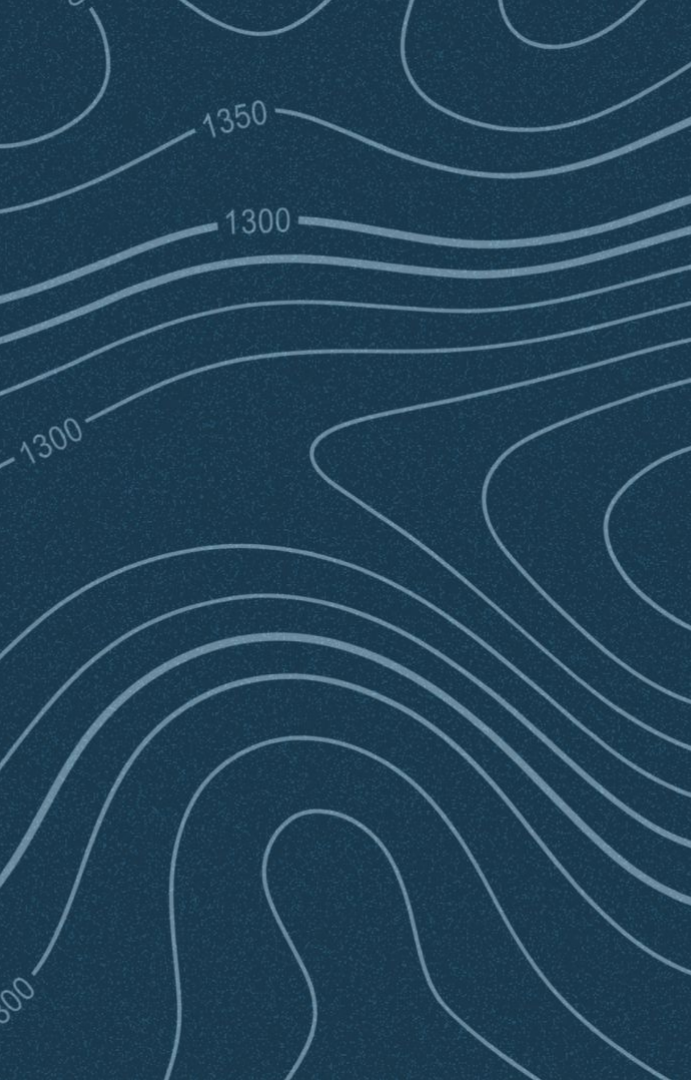
Sick leave: Payout (PTO for sick leave)

Accrual

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

Frontloading

- Employees must be paid for all their unused leave



PTO rollover

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

Pop quiz!

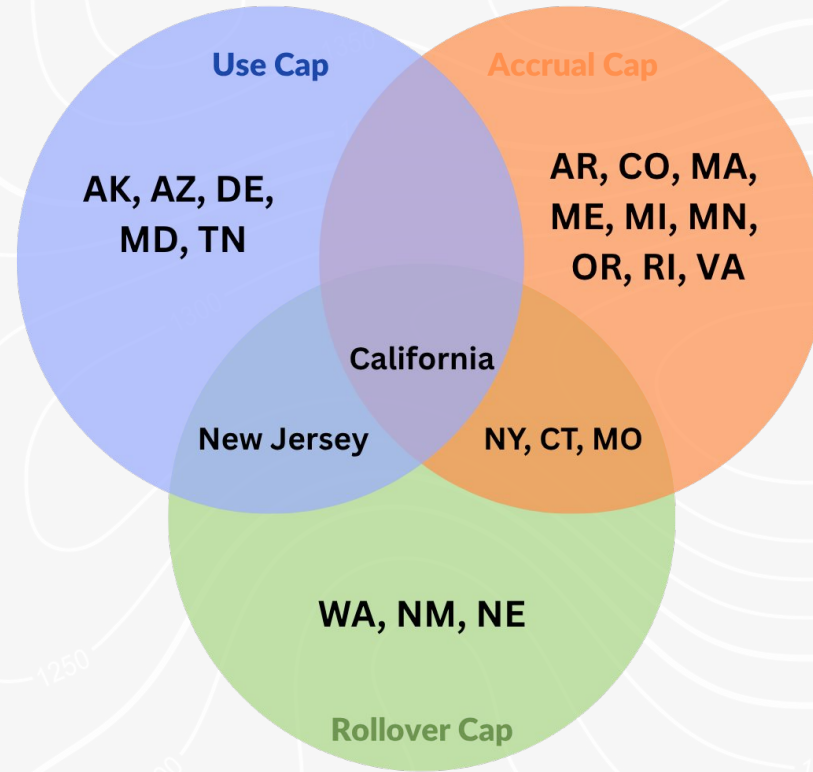
How many hours of sick leave must employees be allowed to roll over each year in New York?

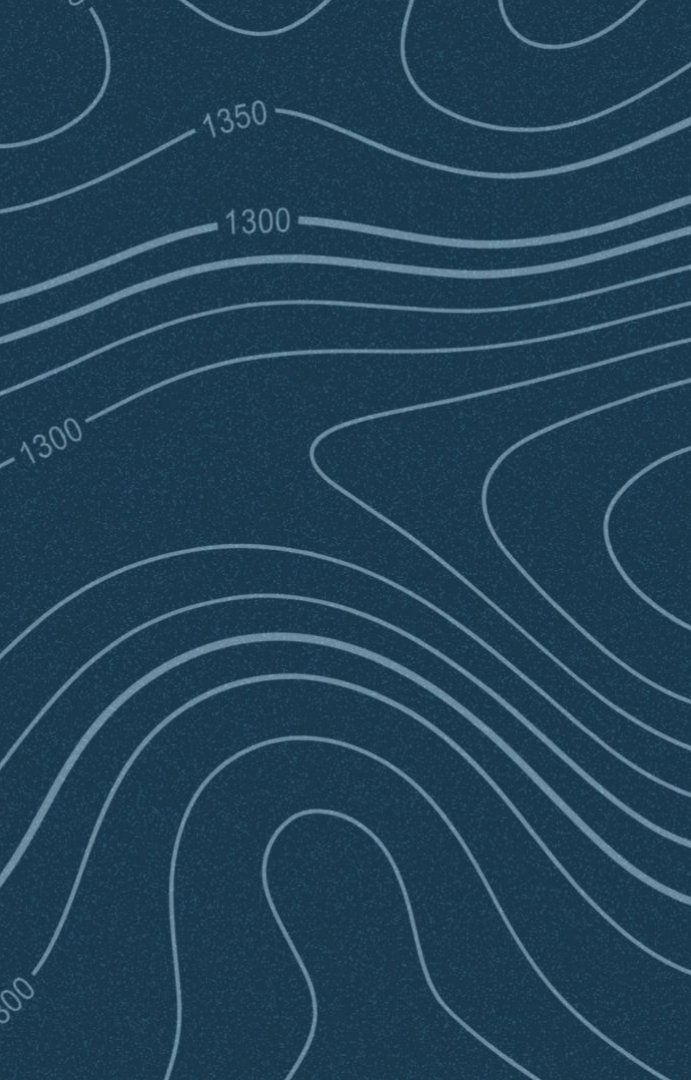
Sick leave: Caps galore

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





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

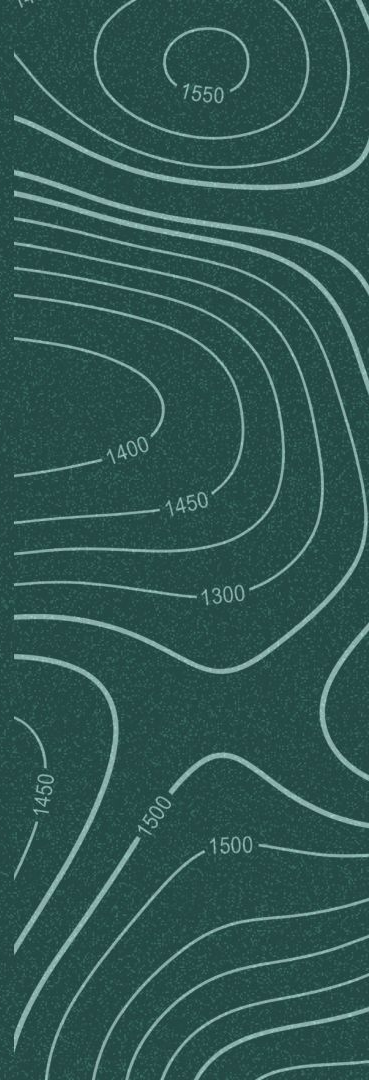
Frontloading

- 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



LEAVE POLICY DESIGN

Recordkeeping and Handbooks



Recordkeeping requirements: Paystubs

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

- **Required by:** AZ, CA, CT (25+), Chicago, MD, NV, NYC (SSL Leave), Seattle, and Tacoma
- **California** also requires PTO info if you use PTO to replace sick leave. Also requires “Unlimited” note
- **Washington & Tacoma** require monthly updates
- **New Mexico & Oregon** require quarterly updates

Recordkeeping requirements: 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.

Different ways to structure your employee handbook

All-in-one

Pros

Straightforward to put together and navigate.

Relatively easy to update.

Cons

Employees can see what benefits those in different states get.

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

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.

Universal

Pros

Easy to navigate and understand.

Can be shorter than other options.

Cons

Organizations must often provide more leave or benefits than required by state law.

Can be more challenging to determine whether state law changes affect universal policies.

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.

May also be more of an administrative burden to get acknowledgments.

One universal policy to rule them all

A universal policy applies to employees in all states—and takes into account the most generous 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 leave 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
- Your employee handbook should be a resource for your employees, a tool to help your organization comply with its legal obligation, and a way to establish and maintain your organization’s culture and values.

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SEPTEMBER

01

**Getting HR and Non-HR Teams Aligned
on Compliance**

An aerial photograph showing a dark, calm lake on the left side of the frame. A dense, green forest covers the right side. A thin, light-colored road or path winds through the forest, starting from the top right and curving towards the bottom right. The word "sixfifty" is overlaid in the center of the image, with the "x" and "f" partially enclosed by a white geometric shape.

sixfifty