

Cook County, Illinois, Issues Final Paid Sick Leave Regulations

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The Cook County, Illinois, Commission on Human Rights has released [final regulations](#) that will govern its interpretation and enforcement of the Cook County “Earned Sick Leave” (ESL) Ordinance. The Ordinance is set to take effect on July 1, 2017.

Passed on October 5, 2016, the Ordinance mandates that covered employers in Cook County allow eligible employees to accrue up to 40 hours of paid sick leave in each 12-month period of their employment. (For details of the Ordinance, see our article, [Cook County, Illinois, Enacts Paid Sick Leave Ordinance](#).) The Commission approved the final regulations on May 25, 2017.

Final Regulations

Although the final regulations are similar to the [draft regulations](#), they differ in notable ways. The final regulations:

- Simplify the definition of “accrual period” and no longer tie it to the benefits year;
- Provide that in determining whether someone has a “close association” to a covered employee, the Commission may consider whether the covered employee and the individual would be considered “Family member[s]” as defined by the federal sick leave regulations;
- Provide guidance on payment of ESL to employees who are paid on a commission or piecework basis;
- Provide guidance on when a “residence” may be considered a “place of business” under the Ordinance;
- Slightly modify the rules on telecommuting and remove the requirement that the employer transact “significant business” with customers in Cook County through the telecommuting employee;
- Clarify the rules with respect to accrual of ESL, particularly as it relates to employees who work for covered employers outside of Cook County;
- Explicitly provide that employers may use a payroll system that tracks fractional accrual of ESL even though employers need not award ESL in fractional intervals;
- Significantly modify the guidance with respect to front-loading employees’ annual accrual of ESL;
- Remove the proposed regulation allowing employers to utilize a standardized accrual period as opposed to an individualized accrual period based upon employees’ first day of work for covered employers;
- Explicitly provide that covered employers can establish a “use waiting period” that would prohibit covered employees from using his or her ESL until as late as the 180th day after the start of his or her employment;
- Clarify situations in which Family and Medical Leave Act-eligible covered employees may use up to 60 hours of ESL during each accrual period;
- Explicitly provide that a covered employee’s use of ESL for FMLA purposes runs concurrently with his or her use of leave under the FMLA;
- Provide additional guidance for employers who wish to front-load ESL or adopt other alternative accrual methods; and
- Expressly provide that employers may: (1) enforce reasonable written notice requirements; (2) require employees to provide reasonable advance notice of the need to use ESL for foreseeable purposes; and (3) discipline employees who abuse their ESL.

Municipalities Opted Out

In addition, since the draft regulations were published, a number of additional municipalities have opted out of the Ordinance. To date, the Cook County municipalities that have opted out of the Ordinance include:

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- Justice
- La Grange Park
- Lincolnwood
- Lynwood
- Maywood
- Melrose Park
- Midlothian
- Morton Grove
- Mount Prospect
- Niles
- Norridge
- Northbrook
- Northlake
- Oak Forest
- Oak Lawn
- Orland Hills
- Orland Park
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Notice

Finally, the Commission also has issued a model posting/notice to employees regarding their right to earn and use paid sick leave, as contemplated by the Ordinance.

The model notice is available on the Commission's website and should be displayed in a conspicuous place at each place of business where any Covered Employee works within the geographic boundaries of Cook County.

Covered Employers also are required to provide notice to every Covered Employee regarding his or her rights under the Ordinance. The notice must be provided to each Covered Employee no later than the date he or she becomes eligible to accrue paid sick leave, and at least once each calendar year thereafter.

Employers with operations in Cook County, Illinois, should review carefully the Ordinance, together with the final regulations, and their policies and practices related to paid sick leave and prepare to finalize and distribute to employees their policies prior to July 1, 2017.

Although the City of Chicago has released draft regulations implementing its Paid Sick Leave Ordinance, the regulations have not yet been finalized.

Please contact the Jackson Lewis attorney with whom you work if you have any questions about the ordinances or the Cook County regulations.

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