

RULES FOR PROTECTED TIME OFF POLICIES

An employer's protected time off policy must meet or exceed the requirements of NYC's Earned Safe and Sick Time Act (also called Protected Time Off Law). In addition to giving employees the [Notice of Employee Rights](#) in English and, if applicable, in their primary language, employers must give employees written protected time off and paid prenatal leave policies that must:

1. **Be a single document.**

An employer's entire protected time off and paid prenatal leave policy must be in a single document. It can be a stand-alone written policy or a section in a policy manual, such as an employee handbook.

2. **Include information about immediately available time.**

The policy must state:

- the amount of immediately available hours of *protected time off* (must be at least 32 hours);
- whether this time is paid or unpaid;
- that this time is available for use at the beginning of employment and at the beginning of each calendar year; and
- the availability of a separate bank of 20 hours of *paid prenatal leave* during any 52-week period.

3. **Explain how the employer calculates accrued or front-loaded protected time off.**

Employers that use an accrual method for protected time off (at least 1 hour for every 30 hours worked) must state in the policy:

- that accrual starts at the beginning of employment;
- the rate of accrual; and
- that an employee may use protected time off as it accrues.

Employers that front-load protected time off at the beginning of each year must state this in the policy, including:

- the amount of front-loaded leave; and
- that front-loaded leave is immediately available for use.

4. **Explain carryover of accrued or front-loaded protected time off.**

Employers must state their policies on carryover of protected time off from one calendar year to the next.

Employers that use an accrual method must allow employees to carry over up to 40 or 56 hours of unused protected time off (depending on employer size) to the following calendar year.

Employers that front-load are not required to carry over unused protected time off as long as they front-load at least 40 or 56 hours of leave at the start of each calendar year.

5. Explain how employees can use protected time off or paid prenatal leave.

Employers must state any policies or procedures to use protected time off and paid prenatal leave, as well as any limits or conditions on usage; for example:

- any procedures employees must follow to tell the employer they are using leave (see Rule 7-205);
- any requirement to provide documentation after using more than three days of leave (see Rules §§ 7-206, 7-209);
- any requirement to use leave in a minimum increment (see Rule § 7-204);
- any policies on discipline for misuse of leave (see Rule § 7-215).

Employers are not required to adopt any of these conditions or limitations but, if they do, the policy must address them.

The policy must also state that:

- the employer will not ask the employee to provide details about the medical condition or personal situation that led the employee to use protected time off or paid prenatal leave; and
- any information the employer receives about the employee's use of protected time off or paid prenatal leave will be kept confidential and not disclosed to anyone without the employee's written permission or as required by law.

6. Explain that employees can use other leave provided by the employer as “protected time off.”

Employers may use terms other than “protected time off” or “safe and sick leave” to describe provided leave; for example, paid time off, vacation days, personal days, or days of rest. If that is the case, the policy must:

- state that the leave meets or exceeds all the requirements of NYC’s Protected Time Off Law; and
- include the following language, “*Such leave may be used by an employee for any of the purposes set forth in NYC’s Protected Time Off Law and its rules.*”

7. Have no unlawful provisions.

Employers should familiarize themselves with all aspects of the law and rules to ensure that their written policies are compliant. In particular, employers should be familiar with the provisions on:

- protected time off accrual;
- paid prenatal leave;
- amounts and time frames for payment of leave;
- reasons employees may use leave;
- replacement workers;
- successor employers;
- retaliation.