

One Minute Memo[®]



Newark Paid Sick Time Ordinance Poster/ Notification Issued

By Christopher Lowe and Joshua D. Seidman

A quick reminder that earlier this week the City of Newark announced that its “Paid Sick Leave Ordinance” **becomes effective on June 21, 2014.**¹ The Ordinance requires all private sector employers with 10 or more Newark-based employees to provide up to five days of paid sick leave per year, while employers with fewer than 10 employees must provide up to three days of paid sick leave per year. (For more details regarding Newark’s Paid Sick Leave Ordinance, please see our previous [Management Alert](#)).

Beginning on June 21, 2014, employers must provide written notice of their employees’ rights and obligations under the Ordinance: (1) to new employees at the time of hire and (2) to existing employees “as soon as practicable.” Employers must also post notice in “a conspicuous and accessible place” in each business establishment where employees who work at least 80 hours a year in Newark are employed. With respect to the posting requirement, the Newark Department of Child and Family Well-Being (“the Department”) recently released the Department-approved poster, a copy of which is attached to this update. Employers should display this poster with their other state and federal posters by June 21, 2014. Relatedly, employers should be aware that according to the Ordinance’s text, they must also display the poster “in any language that is the first language of at least 10% of the[ir] [] workforce.” While the Ordinance suggests that the poster will also be released in “Spanish and any other languages deemed appropriate by the [Department],” at this time only the English version is available on the City’s [website](#).

Because the Department has not issued a model written notice, we and the City of Newark recommend preparing one that incorporates the key terms of the Ordinance. In addition, we and the City further advise that employers adopt the key provisions of the Ordinance into their employee handbooks.

A copy of the [model poster](#) corresponding to the City of Newark’s Paid Sick Leave Ordinance is available online.

[Christopher Lowe](#) is a partner in Seyfarth’s New York office and [Joshua D. Seidman](#) is an associate in the firm’s New York office. If you would like further information, please contact your Seyfarth attorney with whom you work, or Christopher Lowe at clowe@seyfarth.com or Joshua D. Seifman at jseidman@seyfarth.com.

¹ When dealing with employees covered by a collective bargaining agreement, the Ordinance becomes effective when the agreement terminates.

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City of Newark

Paid Sick Leave Ordinance

For Employers

1. If my company employs nine or fewer workers, are the employees eligible for sick leave?

Yes.

2. Does it matter whether an employee is full-time or part-time?

No -so long as the employee works at least 80 hours per year.

3. All my employees were hired pursuant to a collective bargaining agreement. Will this law change our agreement?

This law will change the agreement only upon the expiration of the current collective bargaining agreement unless the requirements provided for in this Ordinance are expressly waived in the collective bargaining agreement in clear and unambiguous terms.

4. Do I have to retain records that the City can review, documenting the number of hours my employees work and how much earned sick time they've taken?

Yes. See paragraph 8 of the Ordinance as to record retention.

5. What will happen if I don't retain these records?

An employer is subject to fines for failing to maintain adequate records required by the ordinance. See, paragraph 7 (as to fines) and 8 (as to the records), generally. Also, it creates a rebuttable presumption that the employer has violated this Ordinance absence clear and convincing evidence otherwise.

6. Do I have to inform employees about the City's sick time law?

Yes. See, paragraph 6.

7. Do I have to display anything in my business about the law?

Yes. See, paragraph 6.

8. If most of my workforce speaks Spanish, do I have to provide and display Spanish-language notices and posters?

Yes. The ordinance requires that notice be in English and the primary language spoken by an employee, as long as that language is spoken by at least 10% of the Employer's workforce.

9. Can I be fined if I don't provide notice?

Yes. See, paragraph 6.

10. If an employee asks to use sick time to care for an ailing family member, can I ask that the employee describe the family member's condition?

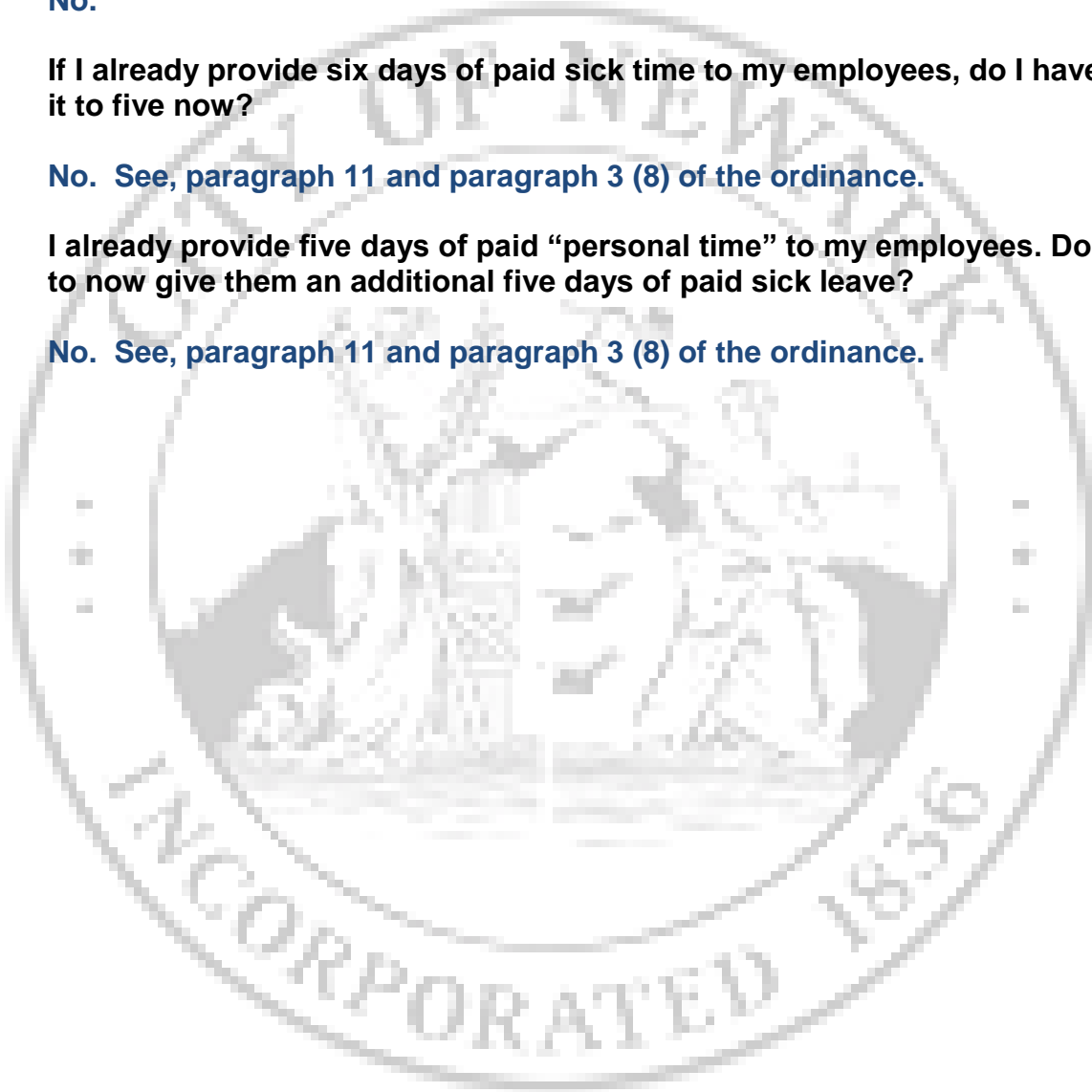
No.

11. If I already provide six days of paid sick time to my employees, do I have to lower it to five now?

No. See, paragraph 11 and paragraph 3 (8) of the ordinance.

12. I already provide five days of paid "personal time" to my employees. Do I have to now give them an additional five days of paid sick leave?

No. See, paragraph 11 and paragraph 3 (8) of the ordinance.



FOR EMPLOYEES

1. Who is eligible?

An employee as defined in NJSA 34:11-56a1(h), who works in Newark for at least 80 hours in a year, but not employed by any governmental entity or instrumentality, including any school district, board of education, including Rutgers and subdivisions of Rutgers or any member of a construction union covered by a collective bargaining agreement.

2. How much earned sick time am I eligible for?

All employees accrue a minimum of one hour of paid sick time for every thirty hours actually worked, subject to certain limits: (i) If your employer has ten or more employees, your paid sick time is capped at 40 hours in a calendar year; or (ii) If your employer has fewer than ten employees for compensation, your paid sick time is capped at 24 hours in a calendar year; unless, you are a child care worker, home health care worker or food service worker, in which event, you are entitled to up to 40 hours in a calendar year.

3. What if I work for a company that employs nine or fewer workers?

You are still eligible to accrue paid sick time so long as you are an Employee as defined in the Ordinance.

4. Does it matter whether I am a full-time or part-time employee?

No.

5. Am I eligible as soon as I start working?

An employee begins to accrue paid sick time on the first day of employment, but can't use it until the 91st calendar day. See, paragraph 3(6) of the ordinance.

6. Can I carry over my unused sick leave?

Yes. See, paragraph 3(7) of ordinance.

7. Can I receive payment for any unused sick leave if I quit?

No. See, paragraph 3(9).

8. I quit my job and was then rehired by the same company. Do I lose my accrued sick time?

Yes. The ordinance does not provide for vesting sick time if an employee quits. If the employee is terminated (fired or laid off) and rehired within 6 months, the sick time is reinstated. See, paragraph 3(10).

9. My company was just bought out by another firm. Do I lose my accrued sick time?

No. See, paragraph (11) of the ordinance.

10. Can I only use my sick time if I am sick?

No. You can also use your sick time for the care of a family member, closure of your place of employment because of a public health emergency; care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; or if a family member has a communicable disease. See, paragraph 4(c).

11. If I am entitled to five earned sick days in one year and take all five, can I get in trouble with my boss?

Not if use your sick time for the care of a family member, closure of your place of employment because of a public health emergency; care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; or if a family member has a communicable disease. See, paragraph 4(c).

12. What do I do if I believe my employer isn't granting me sick time I am entitled to?

You can file a complaint in the City of Newark's Municipal Court; or

You can notify the Department of Child & Family Well-Being, City of Newark, who can attempt to resolve the issue with the employer and/or file a complaint on your behalf in Municipal Court as well as a complaint on behalf of the City of Newark.

