

**Healthy Workplace, Healthy Families Act of 2014 (AB 1522)**  
*Paid Sick Leave*  
**Frequently Asked Questions from Churches**

Beginning July 1, 2015, California will be the second state in the nation to require paid sick leave for all employees. This new law will benefit the 6.5 million workers in California who cannot take a paid day off when they are ill or a family member is sick.

This new law, while providing a great benefit to many, has generated questions from the churches that don't currently offer a sick pay benefit, or perhaps only offer a benefit to full-time employees. This new benefit will apply to all paid employees at our churches, whether exempt or non-exempt, full-time, part-time or any other less-than-full time category.

Our churches have received a poster from the Office of the Labor Commissioner that must be displayed for all employees to easily read. And many have been consulting their attorneys and our Conference Human Resources Office with questions about how this new law will affect their churches and employees.

It is in response to these questions that we have prepared this Question and Answer document as a resource that we hope will be of some assistance as our churches strive to comply with this new law and make it work for their employees.

For a complete description of the new law, please visit the website for the Department of Industrial Relations, Division of Labor Standards Enforcement at <http://www.dir.ca.gov/dlse/ab1522.html>. *Note: It will be helpful to read the description of the law before jumping into the Frequently Asked Questions (FAQs)!*

**Questions and Answers Regarding Specific Issues  
Raised by Member Churches  
(Not intended to be a comprehensive discussion)  
Healthy Workplace, Healthy Families Act of 2014**

**Q. Does the new sick pay law apply to both exempt and non-exempt employees?**

A. Yes. The new sick leave law applies to all employees including, without limitation, exempt, non-exempt, part-time, full-time, temporary, seasonal, casual, and on-call.

**Q. How much paid sick leave is an employee entitled to?**

A. There are two main approaches, accrual and lump sum. Under the accrual method, employees accrue one hour of paid sick leave for each 30 hours of work. For exempt employees, if the accrual method is chosen, the accrual rate is based on a presumed 40-hour week, but if their normal workweek is less than 40 hours, the accrual could be based on the employee's normal workweek. You can put carryover and use restrictions on the accrual method, e.g., carryover limited to 48 hours or 6 days, whichever is greater, and use limited to 24 hours. For the lump sum method, employees are entitled to the greater of 24 hours or three days at the beginning of employment and each 12 months thereafter. There is no carryover.

**Q. Does the new law require employers to pay out unused sick pay at termination like vacation pay does?**

A. No. Unused sick pay is not payable at termination.

**Q. Does the new paid sick leave law apply to clergy?**

A. Clergy are governed by the Book of Discipline and its provisions on paid time off, and, under the ministerial exception, sick pay under the new law would not apply to clergy.

**Q. Under the new law, if an accrual method is used, employees start to accrue the sick pay benefit after they have worked 30 days in California in the initial year of employment. What constitutes a “day,” when many church workers work less than eight hours in a day?**

A. First, the 30 days can be for any employer in California. Second, when tallying days for purposes of beginning the accrual, use calendar days worked. Example: two hours worked on a Sunday morning would constitute one calendar day.

**Q. Is it possible to use the accrual method for one group of employees and the lump sum method for another group?**

A. This is acceptable, as long as the method used for each group is clearly defined. For example, a-lump sum/no carry-over method could be used for full time employees, and an accrual and carry-over method could be used for part time or casual employees.

**Q. If the lump sum method is used, for the first year of implementation beginning 7/1/15, would the full 3 days/24 hours need to be given, even though it’s for only half a calendar year?**

A. Yes. Beginning with implementation, an employer could give 24 hours/3 days up front and, if the employer desires to use a calendar year lump sum approach, the employer would give 24 hours/3 days that immediately following January 1<sup>st</sup> (with the previous 24 hours forfeited) and each January 1<sup>st</sup> thereafter.

Another approach, possibly the more conservative one, is to run the 12 months starting 7/1/15 for existing employees. So, they would receive 24 hours in their account 7/1/15. Any hours not used by 7/1/16 would be forfeited, and 24 new hours would go into their account for the year beginning 7/1/16. Employees hired in the interim periods would receive 24 hours and you could either place them on the employment anniversary year approach, or give the 24 hours at date of hire, and then roll them into the calendar year or July 1<sup>st</sup> approach.

Another approach is to use an employment anniversary year for each employee throughout their employment.

**Q. If a church already has in place a more generous sick pay policy in terms of the amount of paid sick leave provided for employees than what the new law requires, could they retain that policy?**

A. Yes. It could be administered either as an accrued benefit with a carry-over of unused hours, according to the church's policy for maximum accrual (so long as it meets the 6 days or 48 hours carryover), or as a lump sum benefit without the accrual and carry-over. The church should make sure, however, that an existing policy is updated to comply with the terms of the law regarding all the reasons paid sick leave can be used for, and all other required provisions.

**Q. How should sick pay be treated for musicians, child care workers and others who work a small number of hours per week?**

A. At first blush, it may seem that the accrual approach would be better as employees who only work a small amount would likely not accrue much, possibly far less than the 24 hours, under the accrual calculation of one hour for each 30 hours of work (to accrue 24 hours, the employee has to work at least 720 hours). Having said that, we are aware of at least one church that has called Sacramento and was informed that even the most part-time employee must accrue 24 hours. Although this issue is not clear, it may be less risky, and is more generous, to use the lump-sum option rather than accruing sick pay on hours worked. Under the lump sum option, the employee receives the greater of 3 days or 24 hours in their sick leave account at the beginning of the year. As sick pay is used, it is subtracted from the amount they started the year with. If the "front-loaded" sick pay is exhausted before the end of the year, no further sick pay would be available for time off due to illness. If there is sick pay still in the employee's account at year-end, it will not carry over to the new year. However, the employee will receive the greater of 3 days or 24 hours of sick pay at the beginning of the new year. Churches who have a higher risk tolerance may decide to still use the accrual approach even for part-time employees.

**Example:**

**A child care worker who normally works two hours every Sunday.**

The lump sum method would be the easiest to administer, and would provide the greater benefit to the employee. The accrual method would be more complex, and would result in a smaller benefit.

**Lump sum method:** Under the lump sum method, the employee would receive 24 hours (this is greater than 3 days, which would only be 6 hours, ie: 2 hours/day x 3 days) in their account at the beginning of the year. If they were sick and missed a Sunday of work, they would receive 2 hours sick pay for that day, and would have 22 hours remaining in their account.

**Accrual method:** Under the accrual method, the employee would earn one hour of sick pay for every 30 hours worked. A child care worker would need to meet the initial eligibility of 30 days of work, and then would earn one hour for each 30 hours worked after the initial eligibility period.

**Q. Does employee have to work 30 days every year before accruing, or just the first year?**

A. The 30 days appears to apply only to the first year of initial eligibility for each employee. This means that the employee would need to have worked for any employer in California for at least 30 days on or after January 1, 2015, and prior to beginning work at the current employer, or July 1, 2015, whichever is later.

**Q. If the lump sum method is used, does the employee have to wait until he/she has worked 30 calendar days to receive sick pay? Since there is no accrual based on hours worked, would the full three days/24 hours be available on day one of each year?**

A. The 30 days is the initial eligibility period and would only apply to new employees or those current employees who have not worked for any employer in California for 30 days prior to the implementation date of July 1, 2015. If the 30 days apply, then the answer to the first question is yes. It is also true that the full three days/24 hours must be available on day one of each subsequent 12-month period.

**Q. Can an employer have a shorter waiting period than 90 days for use of sick leave?**

A. Yes. An employer could have no waiting period for use of sick leave if that is the policy desired. The law allows an employer to have up to a 90 day waiting period should an employer choose to implement it.

**Q. Does the 90-day waiting period only apply in first year of implementation, and the first year of employment for new employees?**

A. Yes.

**Q. Where can I get more information?**

A. The California Division of Labor Standard Enforcement has a website with FAQs on the paid sick leave law, available at the following link:

[http://www.dir.ca.gov/dlse/Paid\\_Sick\\_Leave.htm](http://www.dir.ca.gov/dlse/Paid_Sick_Leave.htm)

**Summary Accrual vs Lump Sum Comparison**

	<b>Accrual Method</b>	<b>Lump Sum Method</b>
Eligibility	Employee works 30+ days within a year from commencement of employment or 7/1/15, whichever is later.	Employee works 30+ days within a year from commencement of employment or 7/1/15, whichever is later.
Begin accruing	On 31 <sup>st</sup> day of work in the year.	No accrual
Timing of use	On 90 <sup>th</sup> day of employment	On 90 <sup>th</sup> day of employment
Amount available	One hour for each 30 hours worked (possibly a minimum of 24 hours for part-time employees, but this minimum accrual and implementation is unclear).	24 hours frontloaded for the year (or 3 days, whichever is greater...3 days would only be greater if an employee normally worked more than 8 hours per day, such as an employment setting with an approved alternative workweek)
Annual usage	May be limited to 24 hours or three days in each year of employment	May be limited to 24 hours or three days in each year of employment
Carry-over	May be capped at 48 hours or six days.	No carry-over required. Any remaining amount of the 24 hours is forfeited and a new 24 hours is frontloaded.
Purpose of sick leave	Diagnosis, care or treatment of existing health condition or preventive care, for themselves or a defined family member. Can also be used by employee who is a victim of domestic violence for specified purposes.	Diagnosis, care or treatment of existing health condition or preventive care, for themselves or a defined family member. Can also be used by employee who is a victim of domestic violence for specified purposes.
Pay out at Separation from Employment	None	None