

# Paid Safe and Sick Leave: What Employees Need to Know

New amendments to NYC’s Earned Safe and Sick Time Act (Paid Safe and Sick Leave Law) take effect September 30, 2020 and January 1, 2021. If you work part time or full time at any size business or nonprofit in NYC or if you work in an NYC household as a domestic worker, read this fact sheet<sup>1</sup> to understand employee rights. Under the Law, covered employees have the right to use safe and sick leave for:

- health, including the care and treatment of themselves or a family member; and
- safety, including to seek assistance or take other safety measures if the employee or a family member may be the victim of any act or threat of domestic violence, unwanted sexual contact, stalking, or human trafficking.

## Employees Covered/Not Covered by the Law

Covered	Not Covered
<ul style="list-style-type: none"> <li>• Full-time employees</li> <li>• Part-time employees</li> <li>• Domestic workers</li> <li>• Transitional jobs program employees</li> <li>• Employees who are family members but not owners</li> <li>• Employees who live outside of New York City</li> </ul>	<ul style="list-style-type: none"> <li>• Students in federal work-study programs</li> <li>• Employees whose work is compensated by qualified scholarship programs</li> <li>• Employees of government agencies</li> <li>• Physical therapists, occupational therapists, speech language pathologists, audiologists who are licensed by the New York State Department of Education (if they call in for work assignments at will, determine their own work schedule, have the ability to reject or accept any assignment referred to them, and are paid an average hourly wage that is at least four times the federal minimum wage)</li> <li>• Independent contractors who do not meet the definition of an employee under New York State Labor Law</li> <li>• Participants in Work Experience Programs (WEP)</li> <li>• Certain employees subject to a collective bargaining agreement</li> </ul>

*Note:* If your employer has an existing policy allowing employees to use safe and sick leave, the policy must meet or exceed the requirements of the Law.

## Notice of Employee Rights

If you are a covered employee, your employer must give you written Notice of your right to safe and sick leave. You have a right to the Notice in English and in your primary language if a translation is available on the DCWP website [nyc.gov/workers](http://nyc.gov/workers). **Keep a copy of the Notice you are given.** Your employer must also post the Notice in the workplace in an area that is visible and accessible to employees.

## Amount of Safe and Sick Leave

Number of Employees Employed by Employer	Employer’s Annual Income	Amount of Leave per Calendar Year*	Paid or Unpaid Leave
1-4	Less than \$1 million	Up to 40 hours	Unpaid
	<b>effective 1/1/2021:</b> \$1 million or more	Up to 40 hours	Paid
5 or more <i>employed by private or nonprofit employer</i>  OR <b>effective 9/30/2020:</b> 1 or more domestic workers <i>employed by household employer</i>	N/A	Up to 40 hours	Paid
<b>effective 1/1/2021:</b> 100 or more <i>employed by private or nonprofit employer or employer of domestic workers</i>	N/A	Up to 56 hours	Paid

\*Note: “Calendar Year” means any regular and consecutive 12-month period of time determined by an employer. The Notice of Employee Rights must state the employer’s Calendar Year.

If your employer is required to provide *paid* safe and sick leave, you must be paid your regular hourly rate and not less than the current minimum wage.

## Safe and Sick Leave Accrual and Use

You:

- Accrue safe and sick leave as soon as you begin working. The minimum rate of accrual is 1 hour for every 30 hours worked.
- Can use safe and sick leave immediately as you accrue it.
- Must receive from your employer written documentation each pay period that shows how much safe and sick leave you have used, accrued, and have left.

<sup>1</sup> Note the date on the back. The NYC Department of Consumer and Worker Protection (DCWP) will update this sheet as appropriate. Monitor [nyc.gov/workers](http://nyc.gov/workers) for updates.

*Exception:* If you are covered by a collective bargaining agreement that was in effect on April 1, 2014, you begin to accrue safe and sick leave under the Law beginning on the date the agreement expires.

## Acceptable Reasons to Use Safe and Sick Leave

You can use safe and sick leave to take time off from work when:

- You have a mental or physical illness, injury, or health condition; you need to get a medical diagnosis, care, or treatment of your mental or physical illness, injury, or condition; you need to get preventive medical care.
- You must care for a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, or who needs preventive medical care.
- Your employer's business closes due to a public health emergency or you need to care for a child whose school or child care provider closed due to a public health emergency.
- You or a family member may be the victim of any act or threat of domestic violence, unwanted sexual contact, stalking, or human trafficking, and you need to take actions necessary to restore the physical, psychological, or economic health or safety of you or your family members or to protect those who associate or work with you, including to:
  - Obtain services from a domestic violence shelter, rape crisis center, or other services program.
  - Participate in safety planning, relocate, or take other actions to protect your safety or that of your family members, including enrolling children in a new school.
  - Meet with an attorney or social service provider to obtain information and advice related to custody; visitation; matrimonial issues; orders of protection; immigration; housing; discrimination in employment, housing, or consumer credit.
  - File a domestic incident report with law enforcement or meet with a district attorney's office.

The Law recognizes the following individuals as "family members:"

- Any individual whose close association with the employee is the equivalent of family
- Child (biological, adopted, or foster child; legal ward; child of an employee standing *in loco parentis*)
- Grandchild
- Spouse
- Domestic Partner
- Parent
- Grandparent
- Child or Parent of an employee's spouse or domestic partner
- Sibling (including a half, adopted, or step sibling)
- Any other individual related by blood to the employee

## Advance Notice

If the need is foreseeable, your employer can require up to seven days' advance notice of your intention to use safe or sick leave. If the need is unforeseeable, your employer may require you to give notice as soon as practicable (reasonable). Your employer may require you to provide written verification that you used safe or sick leave for safe or sick leave purposes.

## Documentation

Your employer can require reasonable documentation if you use more than three consecutive workdays as safe or sick leave. Your employer may require:

- a note signed by a licensed health care provider for sick leave; or
- documentation from a social service provider, legal service provider, member of the clergy, or notarized letter written by you indicating the need for safe leave.

*Your employer may not require that documentation specify the reason you used safe or sick leave. Disclosure may be required by other laws.*

Your employer must reimburse you for:

- fees charged by health care providers to provide required sick leave documentation; and
- all reasonable costs or expenses to obtain required safe leave documentation.

## Unused Safe and Sick Leave

You can carry over up to 40 hours (or, if applicable, 56 hours effective January 1, 2021) of unused safe and sick leave to the next Calendar Year. However, your employer is only required to let you use up to 40 (or 56) hours of safe and sick leave per Calendar Year.

## Retaliation

Your employer cannot retaliate against you for requesting or using safe and sick leave. Retaliation includes any threat, discipline, discharge, demotion, suspension, or reduction in your hours, or any other adverse employment action against you for exercising or attempting to exercise any right guaranteed under the Law, which includes actions related to perceived immigration status or work authorization.

## Complaints

You may file a complaint with DCWP. To get the complaint form, go to [nyc.gov/workers](https://nyc.gov/workers) or contact 311 (212-NEW-YORK outside NYC).

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**Questions?** For more information or to contact DCWP:

- Visit [nyc.gov/workers](https://nyc.gov/workers) for the law and Frequently Asked Questions
- Email [PSSL@dcwp.nyc.gov](mailto:PSSL@dcwp.nyc.gov)
- Call 311 (212-NEW-YORK outside NYC) and say "Paid Safe and Sick Leave"