

# City of Mission Viejo Personnel Policy

**Subject:** Paid Sick Leave

**Statement of Intent:**

California's AB 1522, called the "Healthy Workplaces, Healthy Families Act of 2014" was signed into law on September 10, 2014, and became effective January 1, 2015. The law requires employers to provide paid sick leave to assist employees who miss work due to their own illness or medical appointments or an illness or medical appointment of a qualified family member during their employment.

This policy is intended to satisfy the requirements set forth under Labor Code Sections 245 – 249 and Labor Code Section 2810.5 as well as the subsequent AB 304 clean-up legislation effective July 13, 2015 and AB 616 legislation effective January 1, 2024.

**Policy:**

1) Eligibility –

- a) Paid sick leave accrual and use as defined in this policy shall only apply to employees designated as "hourly/seasonal/temporary" (HST) employees. The definition of an HST employee can be found in the City's Categories of Employment Personnel Policy.
- b) AB 304 amends Labor Code Section 245.5(a) to expressly exclude public agency retired annuitants from the definition of an "employee" for the purposes of accruing and using paid sick leave. Therefore, any HST employee that is also a CalPERS or 1937 Act retired annuitant is not eligible for benefits under this policy.
- c) "Full-time" and "Part-time" employees, as defined in the City's Categories of Employment Personnel Policy, are already eligible for paid time off under the City's Comprehensive Annual Leave Personnel Policies. Therefore, employees categorized as "full-time" or "part-time", are not eligible for additional paid sick leave as described in this policy.

2) Accrual –

- a) Employees are eligible to accrue paid sick leave beginning with their first day of employment as an HST employee, or July 1, 2015, whichever is later.
- b) Employees accrue paid sick leave at the rate of one (1) hour for every thirty (30) hours of work, subject to the maximum balance limitations contained in this policy.

- c) The accrual shall be adjusted by the Payroll Division to ensure the employee has accrued no less than 24 hours of sick leave by the 120th calendar day of employment and accrued no less than 40 hours of sick leave by the 200th calendar day of employment.
- d) Unused accrued paid sick leave hours will carry over from one year to the next.
- e) Employees may not have a paid sick leave balance of more than eighty (80) hours. If an employee reaches this cap, no further paid sick leave hours will accrue until the employee falls below the cap.

### 3) Use of Paid Sick Leave –

- a) Employees may use accrued paid sick leave hours beginning with their 90<sup>th</sup> day of employment with the City of Mission Viejo. Length of employment shall be measured using the employees hire date.
- b) An employee may not use paid sick leave hours before they are accrued.
- c) The minimum charge to paid sick leave is one half (1/2) hour.
- d) An employee may use paid sick leave when the employee is sick or ill. In addition, an employee may submit an oral or written request to receive paid sick leave for any purpose allowed by the California Healthy Workplaces, Healthy Families Act, such as either:
  - i) The diagnosis, care, or treatment of an existing health condition of, or preventive care for, the employee or a family member; or
  - ii) For an employee who is a victim of domestic violence, sexual assault, or stalking, to take time off:
    - (1) To obtain or attempt to obtain any relief to help endure the health, safety, or welfare of the employee or the employee's child, such as a temporary restraining order, restraining order other injunctive relief;
    - (2) To seek medical attention, obtain services from a shelter, program, or rape crisis center;
    - (3) To obtain psychological counseling;
    - (4) To participate in safety planning; or
    - (5) To take other actions to increase safety from future incidents.

The City shall provide paid sick leave, if accrued, for either purpose.

- e) For purposes of this policy, the term "family member" is defined as:
  - i) A child, which includes a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis;
  - ii) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse, registered domestic partner, or a person who stood in loco parentis when the employee was a minor child;
  - iii) A spouse;

- iv) A registered domestic partner;
- v) A grandparent;
- vi) A grandchild;
- vii) A sibling; or
- viii) A designated person, which, for purposes of this policy, means a person identified by the employee at the time the employee requests paid sick days.
  - (1) The employee is limited to one designated person per calendar year for paid sick days.

4) Employee Notification Obligations –

- a) If the need for paid sick leave is foreseeable, the employee must provide reasonable advance notice.
- b) In an urgent or emergency situation, an employee may request to use Paid Sick Leave on an unscheduled basis by calling, emailing, or texting their supervisor within fifteen (15) minutes prior to the employee's scheduled start time.
- c) The employee shall not be required to search for or find a replacement worker to cover the hours during which the employee uses paid sick leave as a condition of using paid sick leave.
- d) A supervisor, with the concurrence of the City Manager, or a designee, may require an employee to provide a written explanation from a physician explaining the reason for an unscheduled absence and/or indicating that the employee is medically cleared to return to work. The employee must be told in advance of this requirement.

5) Payment of Paid Sick Leave –

- a) Paid sick leave hours will be compensated at the employee's current hourly wage.
- b) Paid sick leave will be paid no later than the payday for the next regular payroll period after the sick leave is taken.

6) Separation from Employment –

- a) Any accrued paid sick leave hours that are not used prior to the employee's last day of employment are lost at the time of resignation, termination, retirement, layoff, or other separation from employment.
- b) If an employee is rehired within one (1) year of the date of separation, any lost paid sick leave hours will be reinstated and available for the rehired employee to use. The employee shall not be required to wait 90 days from their rehire date before paid sick leave hours can be used.

7) Employee Change of Employment Category –

- a) If an employee is hired from an HST position into a full-time equivalent (FTE) position with the City of Mission Viejo, the employee shall be entitled to retain their paid sick leave

balance. However, accrual will stop on the last day of employment as an hourly/seasonal/temporary employee.

- b) As an FTE employee, the employee shall be able to use paid sick leave in the same manner in which they are eligible to use Comprehensive Annual Leave (CAL). The employee shall exhaust their paid sick leave balance prior to using their CAL.
  - c) If an employee is hired from an FTE position into an HST position with the City of Mission Viejo, the employee will begin to accrue paid sick leave effective the first day of employment as an HST employee.
- 8) Employer Notification and Recordkeeping Obligations –
- a) The City shall provide employees with written notice that sets forth the amount of paid sick leave available for use. The notice will be provided either on the employee's itemized wage statement or in a separate writing provided on the designated pay date with the employee's paycheck.
  - b) The City shall display a poster at each workplace that contains information specified in the Labor Code.
  - c) The City shall retain paid sick leave accrual and usage records for a period of at least three (3) years. Such records will document the hours worked and paid sick leave hours accrued and used by each employee. An employee may request access to their records in the same manner regarding itemized wage statements and pay stubs.
  - d) The City shall exercise its exclusion from the Initial Hire Notice requirement.
- 9) Prohibition Against Retaliation –
- a) The law prohibits employers from engaging in various types of conduct, including retaliation and discrimination. It prohibits an employer from denying an employee the right to accrued sick leave, discharging, threatening to discharge, demoting, suspending, or discriminating against an employee for:
    - i) Using accrued sick leave
    - ii) Attempting to exercise the right to use accrued sick leave
    - iii) Filing a complaint with the government or alleging a violation of law
    - iv) Cooperating in an investigation or prosecution of an alleged violation of the law; or
    - v) Opposing any policy or practice or act that is prohibited by law.
  - b) An employee can file a complaint with the Labor Commissioner if the City retaliates or discriminates against the employee.

**Administration:**

In accordance with City of Mission Viejo Municipal Code chapter 2.60 "Personnel System", this Personnel Policy is deemed to have a direct financial impact on the City. City Council approval is required prior to initial implementation and for any subsequent amendments.

Implemented: Resolution No. 15-10, March 2, 2015.  
Amended: Resolution No. 15-44, September 22, 2015.  
Amended: Resolution No. 23-41, October 24, 2023 to be effective December 23,  
2023