

Insights: Alert

Cook County Implements Amendments to Paid Leave Procedural Rules

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After soliciting public comments, the Cook County Commission on Human Rights issued amendments to the [Interpretive and Procedural Rules Governing the Cook County Paid Leave Ordinance](#). The Board of Cook County Commissioners (the “Board”) approved the amendments on October 24, 2024. Below we discuss eight key issues raised by the amended rules that employers should pay attention to when drafting and implementing paid leave policies in Cook County.

We note that an additional important amendment may be issued in the future. [The Board proposed, but has not yet ruled on, an additional amendment to the Paid Leave Ordinance \(the “Cook County Ordinance”\) to permanently exempt parks and school districts](#). Currently, there is a temporary exemption under the Ordinance for parks and school districts that is set to expire on January 1, 2025.

I. Background on Paid Leave in Illinois

Nearly all Illinois employers are required to provide paid leave to their employees either under the State's Paid Leave for All Workers Act (“PLAWA”), Chicago's Paid Leave and Paid Sick Leave Ordinance (the “Chicago Ordinance”) and/or Cook County's Paid Leave Ordinance. PLAWA and the Cook County Ordinance mandate up to 40 hours of paid leave in a 12-month benefit period. The Chicago Ordinance expands the paid leave to up to 80 hours of paid leave, 40 hours of paid leave to be used for any reason and 40 hours to be used for sick leave. Coverage under these various laws is primarily determined by the employee's work location.

a. Cook County Paid Leave Ordinance

Just before the effective date of PLAWA, Cook County replaced its Earned Sick Leave Ordinance (originally adopted in 2018) with the [Cook County Ordinance](#), which became effective on December 31, 2023. Under the Cook County Ordinance:

- Employers are required to provide employees with up to 40 hours of paid leave in a 12-month period, and an employee may use it for any reason.
- With limited exception, a covered employee is defined consistently with the Illinois Wage Payment and Collection Act, and includes any individual permitted to work by an employee, including domestic workers, but excluding independent contractors.

- Employees accrue at least one hour of paid leave for every 40 hours worked, up to 40 hours, in a 12-month benefit period although employers may front load the paid leave. If paid leave is front-loaded, there is no carry forward into the next 12-month period.
- Employers may require employees to provide notice to use paid leave, but only if the employer's notice policy is in writing and has been communicated to the employee before the employee's failure to provide notice.
- When the need for paid leave is foreseeable, an employer cannot require more than 7 days' advance notice.
- If the need for paid leave is not foreseeable, an employer may require that notice be given as soon as practicable.
- Employers may not retaliate against their employees who request or use paid leave.
- In some limited circumstances, employers may deny employees' requests for paid leave.

b. Recent Amendments to the Interpretive and Procedural Rules Governing to the Cook County Ordinance

On March 14, 2024, the Cook County Commission on Human Rights issued its Final Interpretive and Procedural Rules (the “Rules”) to provide guidance and clarification about the Cook County Ordinance.

However, employers were still left with many questions about the Cook County Ordinance. As noted, on October 24, 2024, the Board adopted new amendments to the Rules, which offer additional guidance to employers covering numerous topics, including the accrual of paid leave under the Cook County Ordinance, how the paid leave interacts with leave granted under the federal Family and Medical Leave Act (FMLA), and what written notice must be provided to employees.

The following are eight important points from the amendments:

1. The amendments removed the existing reference to “FMLA Restricted Paid Leave.” Under the superseded 2018 Cook County Earned Sick Leave Ordinance, accrued sick time could be carried forward into a subsequent benefit year and used for FMLA purposes. This distinction is no longer relevant since under the Cook County Ordinance paid leave can be used for any purpose and is not limited to sick leave or FMLA leave (Section 100.100, Defined Terms; Section 400.300(C), Rate of Accrual, Employees of FMLA Eligible Employers);
2. The amendments now state that employees may accrue one hour of paid leave for every 40 hours worked, ***and they continue to accrue additional hours even when they are not working but using previously accrued paid leave hours*** (Section (400.300(C);
3. The amendments require that wages earned when an Employee takes paid leave be included in the employee's regular paycheck (Section 500.500, Payment of Paid Leave);
4. The amendments mandate that any employer notice requirements for the foreseeable use of paid leave be communicated to the employee in writing (Section 500.300(C), Permissible Employer Usage Policies, Notice of Use);
5. The amendments now permit an employer to require FMLA eligible employees to use their accrued paid leave prior to taking unpaid FMLA leave. This is significant as the Cook County Ordinance prohibits employers from otherwise requiring employees to use their paid leave prior to using any other leave

provided by the employer or state law (Section 500.300(C), Permissible Employer Usage Policies, FMLA Leave and Section 900.100, Prohibited [Restrictions]);

6. The amendments clarify when and how an employer may deny a request for paid leave but required that any limited circumstance under which an employer may deny paid leave be included in the employer's written policies. (Section 500.400, Reasons for Denial of Paid Leave Requests.)
7. The amendments specify what the Workplace Poster must include, where it must be posted in physical worksites located within the geographic boundaries of Cook County and how it is to be distributed to employees who work remotely (Section 700.100, Posting Required); and
8. The amendments require employers to provide every employee with a written policy advising them of their leave benefits and rights at the commencement of employment and at least annually thereafter. The policy must include a summary of the Cook County Ordinance, a description of the policy's coverage and the benefits thereunder, the rate of accrual of paid leave, permissible uses of paid leave, and prohibited employer practices. It also must include contact information for the Cook County Commission on Human Rights and an explanation of how employee complaints can be made. It is to be distributed to employees as a written document, handbook or policy (Section 700.200, Employer Written Policy Required).

Navigating this patchwork of overlapping paid leave laws can be complicated for Illinois employers. Employers should therefore consult with competent employment counsel to ensure their policies are compliant for 2025. Our team will continue to monitor any additional updates or material published regarding paid leave in Illinois and update this Legal Alert accordingly. If you have any questions about the new rule or this alert, please feel free to contact the member of our Labor and Employment team with whom you are regularly in contact.

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