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KNOW YOUR RIGHTS: Oakland, CA Paid Sick Time

1) What does the Oakland Paid Sick Time law do?

Oakland's permanent paid sick time law gives workers sick time that can be used to recover from physical/mental illness or injury; to seek medical diagnosis, treatment, or preventative care; or to care for a family member who is ill or needs medical diagnosis, treatment, or preventative care.

On May 12, 2020, the Protecting Workers and Communities During a Pandemic – COVID-19 Emergency Paid Sick Leave Ordinance became effective in Oakland. The law gives workers additional emergency paid leave specific to COVID-19 if the worker is unable to work (or telework) because the worker:

- Is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- Is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
- Is caring for an individual who 1) is subject to a federal, state, or local quarantine or isolation order related to COVID-19, *or* 2) has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- Is caring for their child whose school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19 precautions;
- Is experiencing any other substantially similar condition specified by the federal Secretary of Health and Human Services in consultation with the Secretary of Labor and Secretary of the Treasury;
- Is caring for a family member who has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19; *or*
- Is: 1) at least 65 years old, 2) has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system, 3) has any condition identified by an Alameda County, California, or federal public health official as putting the public at heightened risk of serious illness or death if exposed to COVID-19, *or* 4) has any condition certified by a healthcare professional as putting the worker at a heightened risk of serious illness or death if exposed to COVID-19.

Following an extension in January 2021, the emergency law remains in effect until the expiration of the March 9, 2020 Oakland Declaration of COVID-19 Emergency, unless extended by a resolution of the City Council.

2) Am I covered?

Under Oakland's permanent paid sick time law: if you work as an employee in Oakland for at least **2 hours** in a particular week, you are probably covered, whether you are a **full-time, part-**

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time, or temporary worker. However, the law does not cover federal and state employees and a few other narrow groups.

Under the COVID-19 emergency paid leave law: if you work for pay for at least 2 hours after February 3, 2020 within the geographic boundaries of Oakland, you are probably covered. Workers are covered regardless of immigration status. However, the law does not cover government employees, certain health care providers or emergency responders (if their employers elect to exclude them), and employers that employed fewer than 50 employees between February 3, 2020 through March 4, 2020 (not including certain janitorial employers or certain franchisees).

3) How much paid sick time can I earn under Oakland’s permanent paid sick time law and receive under the COVID-19 emergency paid leave law?

Under Oakland’s permanent paid sick time law: you earn **1 hour** of paid sick time for **every 30 hours worked**. If your workplace has **10 or more workers**, you can earn up to **72 hours** of paid sick time. If your workplace has **fewer than 10 workers**, you can earn up to **40 hours** of paid sick time. Once you have earned the maximum hours of paid sick time, you cannot earn more paid sick time until you have used some.

Under the COVID-19 emergency paid leave law: workers who worked at least 40 hours per week within the City of Oakland over the periods of February 3, 2020 through March 4, 2020 or January 1, 2021 through January 21, 2021 (or at any point thereafter) **or** who are classified as full-time can take emergency paid leave for **up to 80 hours**. Workers who worked for fewer hours during those periods can take emergency paid leave equal to the average number of hours they worked within the City of Oakland over the 14-day period in which they worked the most between February 3, 2020 through March 4, 2020 or January 1, 2021 through January 21, 2021. Workers who began working after these periods of time will receive a similar amount of leave as described above, depending on whether they are working at least 40 hours per week (or are classified as part-time) *or* work fewer hours per week. Unlike paid sick time under Oakland’s permanent paid sick time law, workers do not have to earn—based on hours worked—this emergency paid leave for COVID-19.

Under both the permanent paid sick time law and the COVID-19 emergency paid leave law, all covered employees are protected against being fired or punished for using or requesting their sick time (including threats, discipline, demotion, reduction in hours, termination, etc.).

4) What if my work or my child’s school or daycare is closed for a health emergency?

You cannot use your sick time under Oakland’s permanent paid sick time law because your work or your child’s school or day care is closed unless you would otherwise be able to use your sick time (for example, if you are sick or caring for a sick family member).

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However, you can use emergency paid leave under the COVID-19 emergency paid leave law to care for a child whose school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19 precautions.

5) Which of my family members are covered by the law?

Under Oakland's permanent paid sick time law: you can take sick time to care for yourself or a child, spouse, registered domestic partner, parent, legal guardian or ward, grandchild, grandparent, sibling, or, if you don't have a spouse or registered domestic partner, a designated person of your choice.

Under the COVID-19 emergency paid leave law: you can take emergency paid leave to care for yourself or any of the following individuals for COVID-19 purposes explained above (under Question #1): a child; child of a spouse or domestic partner; parent, parent of a spouse or registered domestic partner; spouse; registered domestic partner; grandparent; grandchild; sibling; sibling, grandparent, or grandchild of a spouse or domestic partner; sibling, grandparent, or grandchild relationships resulting from adoption, step-relationships, or foster-care relationships; individual for whom you are responsible for providing or arranging care; or an individual whose close association with you is the equivalent of a family relationship (such as a close friend who is like family, a significant other, etc.).

6) What if I already have paid leave or paid time off?

Under Oakland's permanent paid sick time law: if you already get any paid leave (vacation, paid time off, etc.) that you can use as sick time **and** it's **at least** the same amount you would earn under this law, the law does **not** give you any additional paid time off.

Under the COVID-19 emergency paid leave law: if, after February 3, 2020, you had the ability to earn at least 160 hours of paid personal leave (with at least 80 hours available to you on May 12, 2020 that could be used immediately for the same purposes as COVID-19 emergency paid leave explained under Question #1 above) *or* you were given immediate access to paid, non-holiday personal leave that could be used for the same purposes as COVID-19 emergency paid leave explained under Question #1 above and is at least equivalent to the leave you would be entitled to under the COVID-19 emergency paid leave law, then the emergency law does not give you any additional paid time off. Additionally, if you were also previously eligible for sick leave under the [federal Families First Coronavirus Response Act \(FFCRA\)](#) or California Assembly Bill 1867, your employer was allowed to credit those sick leave hours against your emergency paid leave under Oakland's COVID-19 emergency paid leave law.

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7) When can I begin using my sick time?

Under Oakland's permanent paid sick time law, you start earning sick time immediately but cannot use it until 90 days after the start of your employment.

Under the COVID-19 emergency paid leave law, you can take emergency paid leave immediately.

8) Do I need a doctor's note?

Under Oakland's permanent paid sick time law: depending on the circumstances, your employer may require a doctor's note.

Under the COVID-19 emergency paid leave law: your employer cannot require a doctor's note or other documentation when you use emergency sick leave, except if you use it because you have a condition certified by a healthcare professional as putting you at a heightened risk of serious illness or death if exposed to COVID-19. You can certify your need for leave using virtual or telephonic appointments with your healthcare provider. However, the healthcare provider's certification does not need to disclose your condition—it just needs to explain that you're at a heightened risk for serious illness or death if exposed to COVID-19.

*Suspected violations of the permanent and emergency paid sick time laws can be reported to the **Department of Workplace and Employment Standards**.*

All covered workers are protected against being fired or punished for using or requesting sick or safe time or emergency leave. If you have a problem—or want more information—call A Better Balance's **free** legal clinic at **1-833-NEED-ABB**.

Please note that this fact sheet does not represent an exhaustive overview of the paid sick time law and emergency paid leave law described, and it does not constitute legal advice. It is possible that additional provisions not described in this fact sheet may apply to a worker's specific circumstances or category of employment.