

Paid Sick Leave Laws Affecting Public School Districts or Education Service Districts

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ORS 332.507

- ORS 332.507(2): “Each district shall allow each school employee at least 10 days sick leave at full pay for each school year or one day per month employed, whichever is greater.”
- ORS 332.507(1)(a): “School employee includes all employees of a public school district or an education service district.”
- ORS 332.507(1)(b): “Sick leave”=“absence from duty because of a school employee’s illness or injury or as otherwise provided for by law or by provisions of a collective bargaining agreement. In case of conflict with a rule adopted to interpret a law, the collective bargaining agreement to which the parties agree shall govern.”

ORS 332.507

- ORS 332.507(3): “At the option of the local governing board, sick leave in excess of five consecutive work days shall be allowed only upon certification of the school employee’s attending physician or practitioner that the illness or injury prevents the school employee from working.”
- ORS 332.507(4): “Sick leave not taken shall accumulate for an unlimited number of days. A local governing board is required to permit a school employee to take up to 75 days sick leave accumulated in other Oregon districts. The accumulation shall not exceed that carried by the most recent employing district. However, the transfer of sick leave from another Oregon district shall not be effective until the school employee has completed 30 working days in the new district.
- ORS 332.507(5): For purposes of determining retirement benefits, a local governing board is required to permit a school employee to transfer an unlimited number of days of unused accumulated sick leave from another Oregon district employer.

Oregon Sick Time Law (SB 454, 2015 Or Laws ch 537, 2017 Or Laws ch 520)

- Allows employees to earn and use up to 40 hours of paid sick time (assuming employer has at least 10 employees) at regular rate of pay each year.
- Employees earn 1 hour of sick time for every 30 hours worked (or 1 1/3 hours per every 40 hours worked). (Employers can front load 40 hours at beginning of year and can select the “year”).
- Employees can carry over up to 40 hours of unused sick time from one year to the next, but employers can limit accrual and usage to 40 hours per year and 80 hours total.
- Sick time usage: broader categories (at least potentially) than ORS 332.507.
- Collective bargaining exception: but would not apply to public schools
- Compliance if policy is substantially equivalent or more generous

SICK LEAVE COMPARISON

ORS 332.507

- Applies to all employees (not defined) of a public school/education service district
- Greater of at least 10 days sick leave at full pay for each school year or one day per month employed.

2015 OR SICK TIME LAW

- Applies to any employee as defined (renders personal services at a fixed rate for an ER)
- Earn and use up to 40 hours of paid sick time at regular rate of pay each year. 1 hour of sick time /30 hours worked)

SICK LEAVE COMPARISON

ORS 332.507

- Unlimited accrual
- Can transfer up to 75 hours of unused sick leave to another district
- Retirement benefits: employee can transfer an unlimited number of days of unused accumulated sick leave from another Oregon district employer.

2015 OR SICK TIME LAW

- Employer can limit accrual (40 hours per year/80 hours total)
- No right to transfer to another employer (180 days to retain unused accrued sick time w/same ER)
- ER not required to compensate for accrued unused sick time for retirement purposes

SICK LEAVE COMPARISON

ORS 332.507

- Sick leave=absence from duty because of employee's illness or injury or as otherwise provided for by law or by provisions of a CBA. CBA> a rule adopted to interpret a law.
- Employer can require medical certification that illness or injury prevents employee from working for sick leave in excess of 5 consecutive work days.

2015 OR SICK TIME LAW

- Sick time can be used for a large number of statutorily-determined reasons
- Employer can require medical verification for sick time of more than 3 consecutive days (or EE doesn't provide notice or ER has sufficient evidence of sick-time abuse)

SICK LEAVE COMPARISON

ORS 332.507

- No eligibility limitation
- No notification requirement
- No usage specification
- No penalty provision
- No non-retaliation provision

2015 OR SICK TIME LAW

- Employees accrue immediately and are eligible to use on 91st day
- Must notify EEs of balance at least quarterly
- Used in 1-hour increments (unless undue hardship)
- BOLI penalties
- Anti-retaliation provision

Other Issues

- “Prohibited” Subject of Bargaining: A contractual term that is specifically contrary to statute or would require a party to act contrary to statute.
- Paid Sick Leave Provisions in Existing Collective Bargaining Agreements of Public Employers