Westchester’s Earned Sick Leave Law: What Employees Need to Know

1. What is the Earned Sick Leave Law?
Under Westchester County’s Earned Sick Leave Law, covered employees have the right to use sick leave for the care and treatment of themselves or a family member. The Westchester County Human Rights Commission (HRC) has prepared this sheet to provide guidance to you as an employee about your rights under the new law.

2. When does the Earned Sick Leave Law go into effect?
The Earned Sick Leave Law goes into effect on April 10, 2019.

3. Am I covered by the Earned Sick Leave Law?
All employees who work in Westchester County for more than 80 hours in a calendar year, full-time or part-time, including those in the subsidized private sector and non-for-profit sector, are covered by the Earned Sick Leave Law.

The only employees NOT covered by the Earned Sick Leave Law are participants in a work experience program established by a social services district; participants in a work study program under 42 U.S.C. § 2753; and employees compensated by or through qualified scholarships under 26 U.S.C. § 117.

4. Does my employer have to comply with the Earned Sick Leave Law?
Employers that must comply with the Earned Sick Leave Law include any person, corporation, limited liability company, or association employing any individual in any occupation, industry, trade, business or service. Westchester County government must also comply with respect to its employees that are not subject to a collective bargaining agreement.
5. **When do I begin to earn sick leave?**

You will begin to accrue sick leave on July 10, 2019, or on your date of first employment, whichever is later.

6. **How much sick leave should I get?**

You accrue sick leave at the rate of one hour for every 30 hours worked, up to a maximum of 40 hours of sick leave per calendar year.

7. **Do I get paid for sick leave?**

If your employer has 5 or more employees, they must give you paid sick leave. If your employer has 1 – 4 employees, your sick leave is unpaid.

8. **Does my employer have to give me notice of my rights under the Earned Sick Leave Law?**

If you are a covered employee, your employer must give you written notice of your right to sick leave. You have a right to the notice in English and, if available on the Westchester County Human Rights Commission website, your primary language. Keep a copy of the notice.

<table>
<thead>
<tr>
<th>Employee</th>
<th>Date Written Notice Due to Employee</th>
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<tbody>
<tr>
<td>Employed on or before July 10, 2019</td>
<td>July 10, 2019</td>
</tr>
<tr>
<td>First employed after July 10, 2019</td>
<td>Date of first employment</td>
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9. **When can I use earned sick leave?**

You can use sick leave 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 preventative 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 preventative 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.

A “family member” is your child, spouse, domestic partner, parent, sibling, grandchild, or grandparent. A “family member” also includes the child or parent of your spouse, domestic partner or a member of your household. A “child” includes a biological child, adopted, foster child, legal ward or a person to whom you stand in loco parentis, regardless of age.
10. Can my employer require me to bring in a doctor’s note?

Your employer can require documentation from a health care provider if you use more than three consecutive workdays as sick leave. Employers may not require the health care provider to specify the medical reason for sick leave.

11. Can my employer require me to give advance notice when I want to take sick leave?

If the need is foreseeable, your employer can require notice of your intention to use sick leave. If the need is unforeseeable, your employer may require you to give notice as soon as practicable. If notice is required, the procedure you must follow to use sick leave must be provided to you in writing.

12. What is retaliation? Can my employer retaliate against me for using earned sick leave?

Retaliation is “pay back” or “revenge”. Your employer cannot retaliate against you for using sick leave, asking about sick leave, informing your coworkers about their rights under the Earned Sick Leave Law, reporting any suspected violation of the Earned Sick Leave Law, or participating in the investigation or enforcement of the Earned Sick Leave Law. Retaliation includes:

- Denying sick leave;
- Discharging, suspending, demoting, or reducing hours;
- Threatening to discharge, suspend, demote, or reduce hours;
- Reporting or threatening to report your suspected citizenship or immigration status or the suspected citizenship or immigration status of a family member to a federal, state or local agency;
- Using a “point system” for using leave, including earned sick leave, as a demerit;
- Interfering with or punishing you for participating in an investigation, proceeding or hearing.

Other acts by your employer may be retaliation. If you have a question about whether you’ve been retaliated against, contact us at the number below.

Questions? If you still have questions about the Earned Sick Leave Law, contact the Westchester County Human Rights Commission at (914) 995-7710 or email your question to HRC-Inquiries@westchestergov.com.

To file a Complaint: Contact the Westchester County Department of Consumer Protection at (914) 995-2155 or visit their webpage at www.consumer.westchestergov.com.