



**George Latimer**  
County Executive

Human Rights Commission  
Tejash Sanchala, Esq.  
Executive Director

Valerie Daniele, Esq.  
Deputy Director

## **Westchester’s Earned Sick Leave Law: What Employers Need to Know**

### *1. What is the Earned Sick Leave Law?*

Certain employers must comply with Westchester County’s Earned Sick Leave Law starting April 10, 2019. Under the 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 employer about your obligations 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. Are all employees covered by the Earned Sick Leave Law?*

The Earned Sick Leave Law does not cover employees who work 80 hours or less in a calendar year; 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. I only have a few employees. Do I have to comply with the Earned Sick Leave Law?*

Your obligations are based upon the number of employees you employ, both part- and full-time.

<b>Number of Employees</b>	<b>Rate of Accrual of Sick Leave</b>	<b>Max. Sick Leave per Calendar Year</b>	<b>Paid or Unpaid</b>
5 or more	One hour per 30 hours worked	Up to 40 hours	Paid
1-4	One hour per 30 hours worked	Up to 40 hours	Unpaid
1 or more domestic workers*	One hour per 7 days worked	Up to 40 hours	Paid

**\*Domestic Workers:** Sick leave covered under this law is in addition to the “days of rest” covered under New York State Labor Law. Go to [labor.ny.gov](http://labor.ny.gov) and search “Domestic Workers’ Bill of Rights” for more information.

5. *I’ve always given my employees sick leave at the beginning of the year. Do I have to change my policy?*

Employers have the option of applying the Earned Sick Leave Law or, in lieu of calculating the accrual of earned sick time, an employer can provide for sick time and personal time equal to 40 hours or more at the beginning of the employer’s year. This is sometimes known as “front loading” or “up-front” leave. This practice will be deemed compliant with the Earned Sick Leave Law so long as there are no restrictions placed on an employee’s ability to use the leave.

6. *Do I have to give notice to employees of their rights under the Earned Sick Leave Law?*

You must give your covered employees a copy of the Earned Sick Leave Law and written notice of their rights to sick leave.

<b>Employee</b>	<b>Date Written Notice Due to Employee</b>
<i>Employed on or before July 10, 2019</i>	July 10, 2019
<i>First employed after July 10, 2019</i>	Date of first employment

7. *When does an employee begin to earn sick leave?*

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

8. *When can an employee use earned sick leave?*

Covered employees can use sick leave when:

- The employee has a mental or physical illness, injury, or health condition; the employee needs to get a medical diagnosis, care, or treatment of your mental or physical illness, injury or condition; the employee needs preventative medical care.
- The employee 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 business closes due to a public health emergency or the employee needs to care for a child whose school or child care provider closed due to a public health emergency.

A “family member” is the employee’s child, spouse, domestic partner, parent, sibling, grandchild, or grandparent. A “family member” also includes the child or parent of the employee’s spouse, domestic partner or a member of the employee’s household. A “child” includes a biological child, adopted, foster child, legal ward or a person to whom the employee stands *in loco parentis*, regardless of age.

9. *Can I require an employee to provide a doctor's note when they use earned sick leave?*

You can require documentation from a health care provider if the employee uses more than three consecutive workdays as sick leave. You may not require the health care provider to specify the medical reason for sick leave.

10. *What records must I keep documenting compliance with the Earned Sick Leave Law?*

You must keep records clearly documenting the hours worked by employees, earned sick time accrued, and earned sick time used, for a period of three years. Failure to do so will be used as a rebuttable presumption of a violation of the Earned Sick Leave Law.

11. *Can I require advance notice when an employee wants to take sick leave?*

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

12. *What if an employee has unused sick leave at the end of the year?*

An employee can carry over a maximum of 40 hours of unused sick leave.

13. *What will happen if an employee files a complaint against me?*

The Westchester County Department of Consumer Protection (DCP) shall investigate all allegations of Earned Sick Leave Law violations. If DCP finds probable cause to support that a violation of the Earned Sick Leave Law has occurred, it shall attempt to facilitate a resolution and, if no resolution is possible, proceed with a hearing on the matter.

**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](mailto:HRC-Inquiries@westchestergov.com).

**If you have questions about a complaint that has already been filed:** Contact the Westchester County Department of Consumer Protection at (914) 995-2155 or visit their webpage at [www.consumer.westchestergov.com](http://www.consumer.westchestergov.com).