NEBRASKA HEALTHY FAMILIES AND WORKPLACE ACT

Frequently Asked Questions (FAQs)

Disclaimer:

The information provided in this FAQ is intended for general guidance and informational purposes only. All cases are subject to review by the Nebraska Department of Labor on an individual basis. The Department may assess each situation according to its specific circumstances, applicable laws, and regulations. For specific advice or assistance regarding your situation, we encourage you to consult with a qualified legal professional.

Pending legislation may impact our FAQ's. Please check back regularly for updates.

Revised July 18, 2025

1. When does the Nebraska Healthy Families and Workplaces Act take effect?

Nebraska Healthy Families and Workplaces Act takes effect October 1, 2025.

2. Are employers required to provide notice to employees regarding the Act?

Yes. Employers must provide written <u>notice</u> of this Act to employees by **September 15**, **2025** or when employment begins, whichever is later. Additionally, employers must display a <u>poster</u> containing the information required in the notice. If an employer does not maintain a physical workplace or an employee teleworks or performs work through a web-based or app-based platform, the employer must provide notice of such information via electronic communication or a conspicuous posting in the web-based or app-based platform.

The Department has a <u>model employee notice</u> and <u>poster</u> available, free of charge, at <u>dol.nebraska.gov/LaborStandards</u>.

3. Does paid sick time under the Nebraska Healthy Families and Workplaces Act apply to all employers?

No. The Nebraska Healthy Families and Workplaces Act applies to employers with 11 or more employees.

Small businesses are businesses that have between 11and19 employees. Small businesses are required to provide accrual of at least 40 hours of paid sick time in a year.

Businesses with 20 or more employees are required to provide accrual of at least 56 hours of paid sick time in a year.

4. Who is entitled to accrue paid sick time under the Act?

All employees (whether full-time, part-time, temporary, etc.) who work at least 80 hours of consecutive employment in a calendar year in Nebraska for an employer with 11 or more employees are entitled to accrue paid sick time unless otherwise exempt under the Act.

The following employees are exempt from the Act and therefore are not required to receive paid sick time:

- Individual owner-operators
- Independent contractors
- Individuals who work in Nebraska for fewer than 80 hours in a calendar year
- Individuals who are employed in agricultural employment of a seasonal or other temporary nature

- Employees who are subject to the federal Railroad Unemployment Insurance Act
- Individuals under 16 years of age

5. Can an existing leave policy satisfy the requirements of the Act?

Yes, it is possible that an employer's current policy, such as a paid time off policy, already meets the requirements. Employers whose current paid leave policy already meets the requirements of the Act are not required to provide additional paid sick time. Employers may consult with a legal advisor regarding their policy.

6. To determine business size, does an employer include employees that work in Nebraska as well as employees that work in other states?

Regardless of whether the employer is in state or out of state, for the purpose of determining business size, the Department only includes individuals that worked at least 80 hours in the state of Nebraska for the employer in a calendar year,

7. If an employer has multiple businesses in Nebraska, is each company looked at separately in calculating the 20-employee threshold?

Whether an employer meets the 20-employee threshold will be reviewed by the Department on a case-by-case basis, taking into account whether each entity was considered a separate employer for other legal purposes including taxes, unemployment insurance and workers' compensation coverage, as well as the relationship between the entities. Employers should consult with a financial or legal advisor regarding whether each business entity would be considered a separate employer.

8. Can an employer provide an employee with their total annual paid sick time at the beginning of the year (front load) rather than having them accrue them over time?

Yes, provided the amount that is front loaded is greater than or equal to the amount required within the Act.

9. How should an employer handle the accrual of paid sick time for an employee who starts after the designated benefit year begins?

For an employee who starts work after the benefit year begins, the employer will need to ensure that the employee accrues 1 hour of paid sick time for every 30 hours worked up to the required accrual amount (40 or 56 hours) until the beginning of the next benefit year. The employer may also provide a lump sum of leave when the employee starts working.

10. How is paid sick time accrued under the Nebraska Healthy Families and Workplaces Act?

Employees accrue 1 hour of paid sick time for every 30 hours worked. Small businesses with 11 to 19 employees must provide at least 40 hours of paid sick time per year. Businesses with 20 or more employees must provide at least 56 hours of paid sick time per year.

Employers may provide employees with more sick time than the Act requires.

11. Does accruing paid sick time begin the first day of employment or after the employee has worked 80 hours?

Employees begin accruing paid sick time after 80 hours of consecutive employment. Paid sick time provided to an employee on or after January 1, 2025 and before October 1, 2025, counts toward an employer's obligations under the Act for calendar year 2025.

12. How is the rate of pay calculated for accrued paid sick time?

Paid sick time is compensated at the employee's regular rate of pay at the time it's used or paid.

For employees paid on a commission, mileage, piece-rate, or fee-for-service basis, paid sick time means time that is compensated at an hourly rate determined by the employer using the average weekly rate calculation under section $\underline{48-126}$, which is then reduced to an hourly rate based on a 40-hour work week.

13. What increments can an employee use for paid sick time?

An employee may use paid sick time in either hourly increments or smaller increments if the employer's payroll system accounts for absences in those smaller increments. Employers must allow at least hourly increments.

14. How does accrued paid sick time carry over year to year?

Employers must allow their employees to carry over unused sick time to the following year. An employer designates when the year starts and ends. There is no maximum carryover.

Alternatively, in lieu of carryover, an employer may choose to pay out accrued but unused paid sick time provided that the employee begins the new year at or above the minimum paid sick time requirement.

Despite the requirement that paid sick hours be carried over, the employer is not required to permit an employee to use more than the maximum yearly amount of paid sick time provided within the Act (either 40 or 56 hours).

Employers whose current paid leave policy already meets the requirements of the Act are not required to allow an employee to accrue or carry over benefits beyond the existing policy.

15. Do employees accrue paid sick time while using paid sick time?

An employee accrues the same benefits during time taken for paid sick time as they typically earn during hours worked.

16. What are an employer's requirements for tracking accrual and usage of paid sick time?

An employer is required to provide employees with a statement of the following on each regular pay period in, or on an attachment to, the employee's regular paycheck: amount of paid sick time available, amount of paid sick time taken, and amount of pay the employee has received as paid sick time. This requirement can be satisfied with an online system that employees can access. The employer must be able to demonstrate to the Department how many hours the employee worked, how much paid sick time the employee accrued, and how much paid sick time the employee was permitted to use.

17. What can an employee use paid sick time for?

Paid sick time may be used for the following:

a) An employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventive medical care

- b) Care of a family member with a mental or physical illness, injury, or health condition; care of a family member who needs medical diagnosis, care, or treatment of a mental or physical illness, injury, or health condition; care of a family member who needs preventive medical care; or in the case of a child, to attend a meeting necessitated by the child's mental or physical illness, injury, or health condition, at a school or place where the child is receiving care; or
- c) Closure of the employee's place of business by order of a public official due to a public health emergency; an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; or an employee's need to self-isolate or care for the employee or a family member when it has been determined by the health authorities having jurisdiction or by a health care professional that the employee's or family member's presence in the community may jeopardize the health of others because of exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

18. Who is a family member for purposes of the Act?

The definition of family member is broad. Any individual related by blood to the employee or whose close association with the employee is the equivalent of a family relationship is considered a family member under the Act. Examples of who meet this definition include:

- A biological, adopted, or foster child, a stepchild, a legal ward, or a child to whom the employee stands in *loco parentis*;
- A biological, foster, step, or adoptive parent or a legal guardian of an employee or an employee's spouse;
- A person who stood in *loco parentis* to the employee or the employee's spouse when the employee or employee's spouse was a minor child;
- A person to whom the employee is legally married under the laws of any state; and
- A grandparent, grandchild, or sibling, whether of a biological, foster, adoptive, or step relationship, of the employee or the employee's spouse.

19. Is an employee required to give notice before using paid sick time?

Notice is only required if the employer has a written policy requiring an employee to give notice of the need to use paid sick time. The employer must provide the employee a written policy containing reasonable procedures for employees to provide notice. An employer that has not provided the employee with a copy of the written policy cannot deny paid sick time to the employee.

20. Does an employee have to find someone to cover their shift in order to use paid sick time?

No. An employer cannot require, as a condition of an employee taking paid sick time, that the employee search for or find a replacement worker to cover the hours that the employee intends to use as paid sick time.

21. Can an employer require reasonable documentation to verify an employee's use of paid sick time?

An employer may require reasonable documentation for use of accrued paid sick time if the employee has used paid sick time for more than three (3) consecutive workdays.

22. What is considered reasonable documentation for purposes of the Act?

Reasonable documentation includes documentation signed by a health care professional indicating that paid sick time is or was necessary.

If the employee or a family member did not receive services from a health care professional or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, a written statement from the employee indicating that the employee is taking or took paid sick time for a qualifying purpose must be considered reasonable documentation.

23. If an employer has an attendance point system or absence control system, what impact does the Act have on such a policy?

An employer may not count paid sick time taken under the Act as an absence that may lead to or result in a retaliatory personnel action or any other adverse action. After an employee has exhausted all paid sick time that he or she is entitled to use under the Act, an employer may then apply its normal absence control policy.

24. Is accrued paid sick time required to be paid out upon separation of employment?

No. Paid sick time is not required to be paid out upon separation of employment. However, should the employer have a combined PTO policy (vacation and sick), all accrued but unused paid time off is due to the employee as wages pursuant to the Nebraska Wage Payment & Collection Act.

25. How can I file a complaint?

NDOL will have a form available on our website for individuals to file a complaint.