



A T T O R N E Y S

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## Portland Sick Time Checklist for Existing PTO/Sick Leave Policies

For a PTO/Sick Leave Policy to be in compliance with Portland City Code Chapter 9, all questions must be answered “Yes” with respect to protected leave.

1. Are employees who work at least 240 hours in a year within the City of Portland eligible for protected PTO/sick leave?
2. Does the policy define what 12-month period the employer will use to track protected PTO/sick time accrual, use and carryover, such as a calendar year, tax year, fiscal year, contract year, or the year running from an employee’s anniversary date of employment?
3. Does the policy include employees who perform work for the employer by physically working in the City via telecommuting?
4. Does the policy have eligible employees start accruing protected PTO/sick time at the commencement of employment?
5. Does the policy have a minimum accrual of at least one hour protected PTO/sick time for every 30 hours worked in the City or, alternatively, provide an equivalent (or better) bank of protected PTO/sick time at the beginning of the calendar year or beginning of employment?
6. Does the policy permit employees to begin using protected PTO/sick time beginning on the 91<sup>st</sup> calendar day after commencing employment so long as they have worked a minimum of 240 hours?
7. Does the policy allow an accrual of at least 40 hours per year of protected PTO/sick time?
8. Does the policy allow a carryover of up to 40 hours of protected PTO/sick time from one year to the following year, unless leave is frontloaded?
9. Does the policy provide for reinstatement of previously accrued and unused protected PTO/sick time if the employee is rehired within six (6) months of separation of employment?
10. Does the policy provide for employees to be paid at the regular rate of pay the employee would have earned during the time the protected PTO/sick time is used?



11. Does the policy allow the use of protected PTO/sick time in increments of at least one (1) hour to cover all or part of a shift?
12. Does the policy make protected PTO/sick time available as soon as it is accrued and not only at the end of the pay period or some other future time?
13. Does the policy require employees to use accrued protected PTO/sick time when they are absent for a qualifying reason?
14. Does the policy permit employees to use accrued protected PTO/sick time for just part of a shift, unless it is physically impossible for an employee to commence or end work partway through a shift?
15. Does the policy allow employees to use at least 40 hours of accrued protected PTO/sick time each year?
16. Does the policy allow employees to use protected PTO/sick time for the following reasons:
  - For the diagnosis, care or treatment of the employee's or the employee's family member's mental or physical illness, injury or health condition, including pregnancy, child birth and routine medical and dental visits;
  - If the employee's place of business closes for an appropriate health emergency, or to take care of a child whose school or daycare closes for a similar reason;
  - For the purposes set out in ORS 659A.272 relating to domestic violence, harassment, sexual assault, or stalking;
  - To care for a family member whose presence in the community jeopardizes the health of others as determined by a lawful public health authority or by a health care provider; and
  - If any law or regulation requires the employer to exclude the employee from the workplace for health reasons?
17. Does the policy define "family member" to include the spouse or domestic partner of the employee, the biological, adoptive, or foster parent or child of the employee, the grandparent or grandchild of the employee, a parent-in-law of the employee or a person with whom the employee was or is in a relationship of in loco parentis?
18. When an employee uses protected PTO/sick leave for an unforeseeable absence, does the policy allow employees to verbally notify his or her supervisor of their need for protected PTO/sick leave before the employee is scheduled to work, or as soon as practical, and submit a written sick leave request within three days of returning to work?

19. Does the policy require reasonable documentation by the employee only after the employee has used protected PTO/sick leave for more than three (3) consecutive days?
20. Does “reasonable documentation” include the following:
  - A signed statement by a health care provider indicating that sick time is necessary;
  - Documentation that the employee or the employee’s minor child is a victim of domestic violence, harassment, sexual assault, or stalking; or
  - A personal statement signed by the employee that he or she is using sick time for a qualifying absence?
21. Does the employer pay the cost of any requested verification by a health care provider that is not covered by insurance or another benefit plan?
22. Does the employer provide written notification at least each quarter of the amount of accrued and unused protected PTO/sick time available for use by each eligible employee?
23. Does the policy put employees on notice that they will not suffer discrimination or retaliation for requesting, using, or complaining that they are not receiving protected PTO/sick time?
24. Does the policy put employees on notice that they may file a complaint with the Bureau of Labor and Industries if they feel that protected PTO/sick leave has been denied or if they believe they have suffered retaliation for requesting or using protected PTO/sick time?
25. Does the employer find coverage for shifts of employees who take protected PTO/sick leave?
26. Does the employer retain records for a period of at least 2 years indicating:
  - The name, address, and occupation of each employee;
  - Sick time accrued and used by each employee; and
  - For hourly employees, the hours actually worked in the City during each pay period by each employee; or
  - For salaried employees who work in the City on a regular basis, the hours of a normal work week for each employee; or
  - For salaried employees who work in the City on an occasional basis, the hours actually worked in the City during each pay period by each employee; or
  - For employers that choose to frontload their employees’ sick time/PTO, the amount of sick time/PTO frontloaded and the dates on which the sick time/PTO is available to the employee to use?