

PAID LEAVE: SOUND BUSINESS PRACTICE AND A LEGAL RIGHT?

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Generally speaking, a U.S. employer, no matter its size, is not legally required to pay its employees for time off from work (many may contractually agree to do so, but it is generally not mandated by law). The statement seems axiomatic (i.e., the saying “a fair day’s work for a fair day’s wages” contemplates that actual work of some sort be performed). For a variety of reasons, however, paid leave rights (i.e., pay for no work) is quickly becoming the norm, at least in certain situations. There may be valid reasons for this change.

More Important than Salary

For one thing, providing such leave rights is perceived as a valuable benefit to employees, many of whom consider work/life balance issues to be essential to a positive employment relationship. A recent article posted on the Web site of the [Society For Human Resource Management](#), better known as SHRM, for example, confirms this. In it, SHRM discusses a 2011 study [“Benefits a Top Factor for Employee Happiness,” 8/12/11] conducted by CareerBliss, a career development Web site and online community, which studied employee reviews for more than 250,000 U.S. organizations. The study’s conclusion: employees generally consider employee benefits, such as work/life accommodations, as central to a workers’ happiness, outpacing even salary. “Our data continue to show that even more important than salary is a company’s commitment to providing a balanced work environment that allows employees to enjoy ample time with their families and friends outside of work,” stated the study. Bottom line, there may be positives to your business (e.g., happier employees may translate to increased productivity) that outweigh the costs associated with paid sick leave.



For another, and perhaps more importantly for those small businesses that operate on thin margins or that are materially impacted when employees take time away from work, the law in many parts of the country is beginning to require such paid leave rights in certain situations. True, the federal government does not mandate paid leave (the Family Medical Leave Act, in its current form, provides only for unpaid leave rights to certain eligible employees, though there are attempts by some to expand its protections), however, four jurisdictions now require it, and legislatures in many other municipalities and states are considering similar legislation. The most recent state to enact paid leave legislation is the State of Connecticut.

Where is Paid Leave Required?

On July 1, 2011, Conn. Public Act No. 11-52 was enacted making Connecticut the first state to mandate paid sick leave. The statute takes effect January 1, 2012, and requires employers to allow their “service workers” (mainly hourly/non-exempt workers across numerous industries) to earn one hour of paid sick leave for every 40 hours worked, capped at a maximum of 40 hours per year. For small businesses (i.e., less than 50 employees), the law is inapplicable. It is estimated that 200,000 to 300,000 workers in Connecticut will be eligible for the paid leave.

Previously, San Francisco (2006), Washington D.C. (2008), and Milwaukee (2008) all passed similar laws providing for guaranteed paid sick days in certain situations. D.C.'s law is even more protective. It provides for guaranteed paid leave rights when caring for sick family members or to obtain assistance related to domestic violence.

Most businesses across the United States are not impacted by the laws in Connecticut or in the handful of municipalities to have passed paid leave legislation. Regardless, there may be sound business reasons for providing employees with paid leave rights in certain situations. At a minimum, employers would be well advised to stay abreast of the wave of paid leave legislation being considered by local and state legislatures across the country, as well as the federal government.

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