

Earned Sick and Safe Time Employee Notice

Employees in Minnesota are entitled to earned sick and safe time (“ESST”), a form of paid leave. Employees must accrue at least one hour of ESST for every 30 hours they work, up to at least 48 hours in a year. A year for purposes of the District’s ESST accrual is January 1 through December 31.

The ESST hours the employee has available, as well as those that have been used in the most recent pay period, must be indicated on the employee’s earnings statement that they receive at the end of each pay period. ESST must be paid at the same hourly rate employees earn from employment. Employees are not required to seek or find a replacement for their shift to use ESST. They may use ESST for all or part of a shift, depending on their need. ESST may be used in the smallest increment of time tracked by the employer’s payroll system, provided such increment is not more than four hours.

ESST can be used for:

- an employee’s mental or physical illness, treatment or preventive care;
- the mental or physical illness, treatment or preventive care of an employee’s family member;
- absence due to domestic abuse, sexual assault or stalking of an employee or their family member;
- closure of an employee’s workplace due to weather or public emergency or closure of their family member’s school or care facility due to weather or public emergency; and
- when determined by a health authority or health care professional that an employee or their family member is at risk of infecting others with a communicable disease.

Notifying employer, documentation

An employer can require their employees to provide up to seven days of advance notice when possible (for example, when an employee has a medical appointment scheduled in advance) before using sick and safe time. An employer can also require their employees to provide certain documentation regarding the reason for their use of ESST if they use it for more than three consecutive days.

If an employee plans to use ESST for an appointment, preventive care or another permissible reason they know of in advance, the employee must inform their Direct supervisor by phone or email and must also enter their absence as ESST leave in the District’s absence reporting system as far in advance as possible, but at least seven days in advance. In situations where an employee cannot provide advance notice, the employee should contact their direct supervisor and report their absence as soon as they know they will be unable to work.

MEMORANDUM

To: All Staff
From: Richard B. Aldrich, Superintendent
Date: December 20, 2023
Re: New Earned Sick and Safe Time Effective January 1, 2024

Dear Staff:

The purpose of this memorandum is to update you on the District's plans for complying with Minnesota's new Earned Sick and Safe Time ("ESST") law. The new ESST statute goes into effect on January 1, 2024. Enclosed with this memorandum you will find a copy of an ESST notice the District is required to provide under the new law. The enclosed notice contains a summary of the purposes for which ESST may be used, along with other information regarding the new law.

For employees eligible to receive ESST under the new law, the District will utilize an accrual method whereby employees will receive one hour of ESST for every thirty hours worked. The total amount of ESST an employee may earn in one year is 48 hours. Employees who do not use all of their earned ESST in one year may carry over ESST from one year to the next up to a maximum accumulation of 80 hours.

Impact on Employees Already Receiving Paid Leave Benefits

For employees who receive paid leave benefits under a contract or collective bargaining agreement, ESST absences will be charged against the employee's available paid leave already available under the terms and conditions of their employment. The new ESST laws do not require the District to provide more paid leave to employees if the leave it already provides may be used for the ESST-qualifying reasons set forth by law. For instance, if an employee seeks to use available ESST leave for a personal illness, the employee's absence will be designated as ESST leave and also charged against the employee's available sick leave balance. If the employee does not have sufficient sick leave to cover the absence, the absence will be designated as ESST leave and will be charged against the employee's available personal leave or vacation leave. For ESST absences that do not qualify for the use of sick leave, the employee's absence will be designated as ESST leave and will be charged against the employee's available personal leave or vacation leave. The District's overall approach to the new ESST law is intended to comply with the minimum requirements of the law within the paid leave already available to employees.

The new ESST law does not require the District to provide more paid leave than it already provides employees as long as it provides leave in a way that does not conflict with the minimum requirements of the new ESST law. Accordingly, as noted above, employees who use ESST will also have ESST absences deducted from the paid sick, vacation,

personal, or other paid leave they have available to them under their existing terms and conditions of employment. Employees are expected to manage their available leave balances to ensure they do not exceed the paid leave made available to them under the terms and conditions of their employment. While the use of ESST is protected by law, the District is not providing more than the minimum amount of ESST required by law. The District reserves the right to address excessive absenteeism through interventions that may include discipline for absences that are not protected by the new ESST law.

Impact on Employees Not Previously Eligible for Paid Leave

Employees who did not previously receive paid leave benefits will now receive one hour of ESST for every thirty hours worked, provided that they work at least 80 hours in one year. As noted above, the maximum amount of ESST an employee may earn in one year is 48 hours and ESST may be carried over from one year to the next up to a maximum accrual of 80 hours.

Procedure for Using ESST

If the need for using ESST is foreseeable, the District will require at least seven days' advance notice of the intention to use ESST. If the need is unforeseeable, the District will require an employee to give notice of the need for ESST as soon as practicable. This memorandum will serve as the District's written policy outlining reasonable procedures for providing notice of the need to use ESST.

Employees must provide notice of the need to use ESST by:

- Notifying their direct supervisor of the need to use ESST either by email or by phone; and
- Entering their absence as ESST leave in the District's absence reporting system.

When an employee enters an absence into the District's absence reporting system as ESST leave, the employee will select the type of leave they have available ESST Sick, ESST Personal or ESST Vacation.

To the extent permitted by law, the District may require reasonable documentation to verify the use of ESST for more than three consecutive days.

ESST Qualifying Reasons

ESST time may be used for the following reasons stated in statute:

- The employee's (1) mental or physical illness, injury, or other health condition, (2) need for medical diagnosis, care, or treatment of a mental or physical illness, injury, or other health condition, or (3) need for preventive medical or health care.
- The employee's care of a family member (1) with a mental or physical illness, injury, or other health condition, (2) who needs medical diagnosis,

care, or treatment of a mental or physical illness, injury, or other health condition, or (3) who needs preventive medical or health care.

- Absence due to domestic violence, sexual assault, or stalking of the employee or a family member if the absence is to:
 - Seek medical attention related to physical or psychological injury or disability caused by domestic abuse, sexual assault, or stalking.
 - Obtain services from a victim service organization.
 - Obtain psychological or other counseling.
 - Seek relocation or take steps to secure an existing home due to domestic abuse, sexual assault or stalking; and
 - Seek legal advice or take legal action, including preparing for or participating in any civil or criminal legal proceeding related to or resulting from domestic abuse, sexual assault, or stalking.
- Closure of the employee's workplace due to weather or public emergency or closure of family member's school or care facility due to weather or public emergency.
- The employee's inability to work or telework because the employee is: (i) prohibited from working by the County due to health concerns related to the potential transmission of a communicable illness related to a public emergency; or (ii) seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, a communicable disease related to a public emergency and such employee has been exposed to a communicable disease or the County has requested a test or diagnosis.
- When it has been determined by the health authorities having jurisdiction or by a health care professional that the presence of the employee or family member of the employee in the community would jeopardize the health of others because of the exposure of the employee or family member of the employee to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

Employees may use ESST for the following family members:

- Child, including foster child, adult child, legal ward, child for whom the employee is legal guardian or child for whom the employee is legal guardian or child to whom the employee stands or stood in loco parentis (in place of a parent).
- Spouse or registered domestic partner.
- Sibling, stepsibling, or foster sibling.
- Biological, adoptive, or foster parent, stepparent or a person who stood in loco parentis (in place of a parent) when the employee was a minor child.
- Grandchild, foster grandchild, or step grandchild.
- Grandparents or step-grandparent.

- A child of a sibling of the employee.
- A sibling of the parents of the employee.
- A child-in-law or sibling-in-law.
- Any of the family members listed above an employee's spouse or registered domestic partner.
- Any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
- Up to one individually annual designated by the employee.

Please contact the Business Office at 218-208-0849 if you have any questions regarding how the District is handling ESST compliance.

Earned sick and safe time (ESST)

Effective: Jan. 1, 2024

What is ESST?

ESST is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse, sexual assault or stalking.

ESST must be paid at the same hourly rate an employee earns when they are working.

Who is eligible for ESST?

An employee is eligible for ESST if they:

- work at least 80 hours in a year for an employer in Minnesota; and
- are not an independent contractor.

Temporary and part-time employees are eligible for ESST.

Retaliation is against the law.

An employer may not retaliate, or take negative action, against an employee for asserting their legal rights under the ESST law.

How do you accrue and use ESST?

- Employees accrue at least one hour of ESST for every 30 hours worked, unless an employer front loads ESST hours as allowed by law.
- ESST begins accruing on the first day of work and employees are allowed to use ESST as it accrues.
- Employers must allow an employee to accrue at least 48 hours of ESST every year and to roll over unused ESST to the next year up to a maximum accrual of at least 80 ESST hours.
- Employers can require documentation from employees when ESST is used for more than three consecutive days.

What can you use ESST for?

ESST can be used for reasons that include:

- the mental or physical illness, treatment or preventive care of an employee or their family member;
- absence due to domestic abuse, sexual assault or stalking of an employee or their family member; and
- closure of an employee's workplace due to weather or public emergency or closure of their family member's school or care facility due to weather or public emergency.



Sick time

For mental or physical illness, treatment or preventive care



Safe time

To address domestic abuse, sexual assault or stalking

Earned sick and safe time as of Jan. 1, 2024

WHAT IS SICK AND SAFE TIME?

Sick and safe time is paid leave employers must provide to employees in Minnesota that can be used for certain reasons, including when an employee is sick, to care for a sick family member or to seek assistance if an employee or their family member has experienced domestic abuse.



WHO IS ELIGIBLE?

An employee is eligible for sick and safe time if they:

- work at least 80 hours in a year for an employer in Minnesota; and
- are not an independent contractor.

Temporary and part-time employees are eligible for sick and safe time. Sick and safe time requirements will not apply to building and construction industry employees who are represented by a building and construction trades labor organization if a valid waiver of these requirements is provided in a collective bargaining agreement.

HOW MUCH LEAVE CAN EMPLOYEES EARN?

An employee earns one hour of sick and safe time for every 30 hours worked and can earn a maximum of 48 hours each year unless the employer agrees to a higher amount.

AT WHAT RATE MUST THE LEAVE BE PAID?

Sick and safe time must be paid at the same hourly rate an employee earns when they are working.

WHAT CAN THE LEAVE BE USED FOR?

Employees can use their earned sick and safe time for reasons such as:

- the employee's mental or physical illness, treatment or preventive care;
- a family member's mental or physical illness, treatment or preventive care;
- absence due to domestic abuse, sexual assault or stalking of the employee or a family member;
- closure of the employee's workplace due to weather or public emergency or closure of a family member's school or care facility due to weather or public emergency; and
- when determined by a health authority or health care professional that the employee or family member is at risk of infecting others with a communicable disease.

WHICH FAMILY MEMBERS ARE INCLUDED?

Employees may use earned sick and safe time for their following family members:

1. their child, including foster child, adult child, legal ward, child for whom the employee is legal guardian or child to whom the employee stands or stood in loco parentis (in place of a parent);
2. their spouse or registered domestic partner;
3. their sibling, stepsibling or foster sibling;
4. their biological, adoptive or foster parent, stepparent or a person who stood in loco parentis (in place of a parent) when the employee was a minor child;
5. their grandchild, foster grandchild or step-grandchild;
6. their grandparent or step-grandparent;
7. a child of a sibling of the employee;
8. a sibling of the parents of the employee;
9. a child-in-law or sibling-in-law;
10. any of the family members listed in 1 through 9 above of an employee's spouse or registered domestic partner;
11. any other individual related by blood or whose close association with the employee is the equivalent of a family relationship; and
12. up to one individual annually designated by the employee.

Earned sick and safe time as of Jan. 1, 2024

WHAT ADDITIONAL SICK AND SAFE TIME RESPONSIBILITIES DO EMPLOYERS HAVE?

In addition to providing their employees with one hour of paid leave for every 30 hours worked, up to at least 48 hours each year, employers are required to:

- include the total number of earned sick and safe time hours accrued and available for use, as well as the total number of earned sick and safe time hours used, on earnings statements provided to employees at the end of each pay period;
- provide employees with a notice by Jan. 1, 2024 — or at the start of employment, whichever is later — in English and in an employee's primary language if that is not English, informing them about earned sick and safe time; and
- include a sick and safe time notice in the employee handbook, if the employer has an employee handbook.

The Minnesota Department of Labor and Industry will prepare a uniform employee notice that employers can use and will make it available in the five most common languages spoken in Minnesota.

CURRENT SICK AND SAFE TIME LOCAL ORDINANCES

Earned sick and safe time local ordinances already exist in the cities of Bloomington, Duluth, Minneapolis and St. Paul, Minnesota. When Minnesota's statewide earned sick and safe time law goes into effect Jan. 1, 2024, employers must follow the most protective law that applies to their employees.



Sick time

For physical or mental health conditions, illness or injury



Safe time

To address domestic abuse, sexual assault or stalking



Labor Standards • 443 Lafayette Road N. • St. Paul, MN 55155
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Notice: This is a brief summary of Minnesota law. It is intended as a guide and is not to be considered a substitute for Minnesota Statutes regarding earned sick and safe leave.