

District of Columbia Leave Laws

This material is for general informational purposes only and does not constitute legal advice. For current and accurate guidance, please consult legal counsel in your jurisdiction.

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Paid Time Off (PTO) in the District of Columbia

Leave Quota

The District of Columbia law demands 0 vacation days. Employers aren't required to provide vacation leave.

Employers in the District of Columbia are not required to provide employees with vacation leave, either paid or unpaid. Nonetheless, suppose an employer chooses to offer vacation leave to their employees, paid or unpaid. In that case, it must be by its established company policy or employment contract.

Accrual

Accruals are not compulsory in the District of Columbia but are widely used by companies.

As a result, companies are free to implement their vacation accrual schedules.

An employer may cap the amount (set the limit) of vacation leave that an employee may accrue only if the employee has willfully agreed to the policy or a contract that implements the cap.

Roll Over

A Use-It-or-Lose-It policy is not prohibited. An employer is not obligated to let their employees carry over unused leave into the following year.

A Use-It-or-Lose-It vacation policy means that an employer at the end of the year doesn't have to pay employees for unused vacation leave. Consequently, an employee loses the remaining vacation days, unpaid.

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The District of Columbia has no statute governing this policy, meaning an employer is free to implement it. But, suppose an employer decides to implement a use-it-or-lose-it type of vacation leave policy. In that case, it may only do so if the employee has willfully agreed to the policy or a contract that contains the use-it-or-lose-it provision.

Statutory Provisions Addressing Vacation Pay

None. No state statutes address vacation pay.

Payment of Accrued, Unused Vacation on Termination

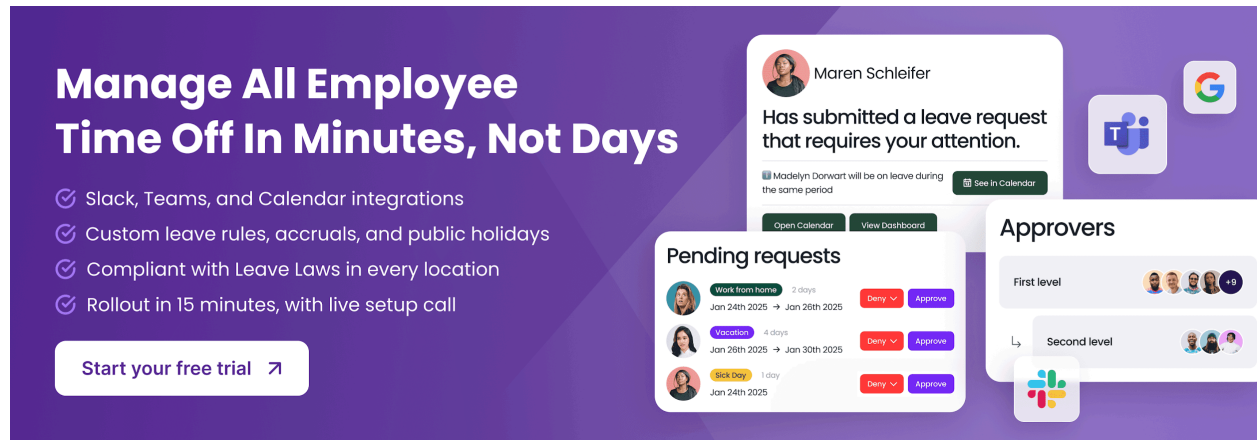
State law does not explicitly require employers to pay out accrued vacation upon termination. Still, company policy, the practice of doing so, or an employment contract may create that obligation.

Employers need to understand that if their policies, practices, or statements rise to the level of creating a “promise” of vacation, then the employers have a binding legal obligation to provide vacation leave—even when state law would not otherwise require it them to do so. This warning also applies to obligations to pay out accrued but unused vacation time upon termination of employment.

Even where state law doesn’t explicitly require employers to pay out accrued vacation upon termination, a constant practice, written policy, or contract promising such compensation may create an enforceable legal obligation. In these circumstances, earned vacation will be treated like wages according to state wage payment and collection laws. The D.C. Court of Appeals has ruled that promised vacation time is a form of compensation for services and that once the person has done the work, the right to be paid is guaranteed, just like wages or other forms of payment.



Suppose an employer grants or promises paid vacation. In that case, an employee who leaves the company is entitled to be compensated for unused leave unless the employee has willfully agreed to a policy or contract that denies such payment.



Sick Leave in the District of Columbia

Federal law requires up to 12 weeks of unpaid sick leave. State law requires paid sick leave for all employees.

Federal Regulations – Leave Quota

First, employers in the District of Columbia must follow the Family and Medical Leave Act (FMLA). This act allows certain employees to take up to 12 weeks of unpaid, job-protected leave each year for family and medical reasons (severe illnesses, maternity or paternity leave, or if the employee needs to care for a child or spouse).

Employees are eligible for FMLA if they have worked for their employer for at least one year, completed a minimum of 1,250 hours over the past year, and worked at a location where the company hires 50+ employees within 75 miles.

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DCFMLA (D.C. Family and Medical Leave Act)

In addition to the FMLA, there is also state D.C. Family and Medical Leave (DCFMLA), which is an extension of the FMLA.

Employers with 20 or more employees must provide job-protected, unpaid leave for up to 16 workweeks in 24 months. Employees are eligible for leave if they've been employed for at least 12 months and worked at least 1000 hours in a year.

Leave covers:

- The employee's severe health condition
- The care of a family member of an employee with a severe health condition
- The birth of the employee's child and the placement of a child for adoption or foster care

The District of Columbia Paid Sick Leave Law

In addition to the FMLA, the District of Columbia has a mandatory paid sick leave law, which applies to all employers and all employees.

Eligible Employers

The District of Columbia requires all employers, regardless of size, to provide employees with paid sick leave.

The amount of sick leave that is required to be provided to employees varies based on the employer's size.

Employers with 0-24 employees must provide at least 1 hour of paid leave for every 87 hours worked. Employers can cap the annual sick leave accrual at 3 days.

Employers with 25-99 employees must provide at least 1 hour of paid leave for every 43 hours worked. Employers can cap the annual sick leave accrual at 5 days.

Employers with 100+ employees must provide at least 1 hour of paid leave for every 37 hours worked. Employers can cap the annual sick leave accrual at 7 days.

The average monthly number of full-time equivalent employees for the previous calendar year calculates the number of employees an employer has. The average monthly number is estimated by adding the total number of full-time equivalent employees each month and dividing by 12.

Paid Sick Leave Use

Sick leave covers various reasons:

- Employee's or family member's health condition, a physical/mental illness or injury
- The need for diagnosis, treatment, or preventive care
- Reasons related to family violence, sexual violence, or stalking.

Annual Use and Rollover Rules

An employer is only required to permit an employee to take paid sick leave during a calendar year to the extent that the employee is legally entitled to accrue in that year. However, an employer must let an employee carry over any unused accrued sick leave from one calendar year to the next.

Payment Upon Termination of Employment

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Whether the employee's separation is the result of a discharge or a voluntary resignation, the employer is not required to reimburse the employee for any unused accrued sick time.

The District of Columbia's Paid Family Leave Program

Eligibility

The DC Paid Family Leave program provides all employees with benefits. Everyone working for a D.C. employer is eligible for D.C. paid leave program, except government employees. That includes full-time, part-time, temporary, and seasonal workers, who usually spend most of their work time in D.C.

How Much Does an Employer Pay to Participate?

Benefits are paid by the city and funded through an employer tax. All private-sector employers in the District of Columbia have to participate in this program and contribute on behalf of their workers. Since July 1, 2019, employers have paid a Paid Family Leave tax to finance the benefits. The tax was 0.62% of the wages employers pay to employees. Starting in 2022, D.C. can cut the payroll tax rate for employers from 0.62% to 0.26%. Implementing these changes could be as soon as July 1, 2022.

According to the latest updates, the Department of Employment Services (DOES) will re-evaluate the employer contribution rate for the private-sector program in March 2023.

For more information on what you need to provide for the payroll tax and the Paid Family Leave tax calculator, visit dcpaidfamilyleave.dc.gov

Pay

Employees who earn up to \$22.50 an hour (around \$46,800/year) are eligible to have 90% of their wages replaced while on leave. For example, say Mark typically makes \$900 a week, he would receive \$810 a week while on leave. The maximum amount anyone can receive is \$1000 per week. Employee benefits will be based on the total average wages from all the DC employers Mark has worked for over the past 15 months.

Covered Events

There are 3 kinds of events for which employees may be qualified for Paid Family Leave benefits:

1. Parental leave (to bond with a new child)

Employees could receive benefits for up to 8 weeks in a year. Starting in 2022, they will receive up to 12 weeks a year. (For more information on parental leave, go to the section below *DC Paid Parental Leave*)

2. Family leave (to care for a family member with a serious health condition)

Employees could receive benefits for up to 6 weeks in a year. Starting in 2022, they will receive up to 12 weeks a year.

3. Medical leave (to care for their serious health condition)

Employees could receive benefits for up to 6 weeks in a year. Starting in 2022, they will receive up to 12 weeks a year.

Implementing these changes could be as soon as July 1, 2022.

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No matter how many types of leave employees take, they can only receive 12 weeks of Paid Family Leave benefits in one year.

DC Paid Family Leave doesn't provide job protection.

What Should a New Business Do?

New businesses must register with the Office of Tax and Revenue (OTR) and the Department of Consumer and Regulatory Affairs (DCRA). Following registration with DCRA and OTR, DOES (Department of Employment Services) will issue a determination on the Unemployment Insurance (UI) liability.

If an employer is subject to UI, they will be notified about Paid Family Leave liability and registration.

Payout

An employer pays the premium.

Maternity, Paternity and FMLA in the District of Columbia

Federal law

12 weeks of unpaid maternity/paternity leave.

The Family and Medical Leave Act (FMLA), applied to employers of 50+ workers, provides 12 weeks of unpaid maternity/paternity leave to expectant and new parents.

Because FMLA is a federal law, it is the crucial key law in the United States for establishing these policies. The majority of the rules and regulations are the same

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everywhere. For more information about FMLA, look above under the section Sick Leave in the District of Columbia => Federal Laws – Leave Quota.

The federal law that protects new mothers is the Pregnancy Discrimination Act (PDA). This law forbids discrimination based on pregnancy in any aspect of work, including hiring, firing, promotions, and other benefits. This applies to companies that have 15 or more employees.

Additional State Laws in the District of Columbia

In addition to the Family and Medical Leave Act and the Pregnancy Discrimination Act, the District of Columbia has 3 following laws regarding Maternity and Paternity Leave:

DCFMLA (D.C. Family and Medical Leave Act)

DCFMLA covers employers with 20+ employees. Employees can take up to 16 weeks of job-protected unpaid leave in a 24-month period. An employee is eligible for leave if he or she has been employed for at least 12 months and worked at least 1000 hours in the last year.

Leave covers these reasons concerning maternity and paternity:

- The birth of the worker's child
- A child is placed with the worker for adoption or foster care.
- The placement of a child with the worker in which the worker assumes and discharges parental responsibility indefinitely.

Leave for the birth/placement of a child must be taken within 12 months of the birth/placement. Employees must provide notice and certification.

The District of Columbia Parental Leave Act

Employers must provide parental leave to their employees. The District of Columbia Parental Leave Act allows employees who are parents or guardians to take 24 hours of unpaid leave during 12 months to attend school-related activities.

Employees must provide 10 days' notice to be eligible for the leave.

Employees can use their paid vacation, sick leave, family time, or personal time.

D.C. Paid Parental Leave

New parents who work in D.C. can receive eight weeks of paid parental leave (12 weeks starting July 1, 2022) in a 52-week period. Parental Leave benefits apply to all DC employees taking time off from work to bond with a new child, including parents of newborns, adopted children, and foster children.

Employees must give their employer at least 10 days' notice before going on paid parental leave.

(For more information on D.C. Paid Parental Leave go to the section above *Sick leave* => *The District of Columbia's Paid Family Leave Program*).

Payout

An employer pays the premium.

Bereavement Leave in the District of Columbia (Funeral Leave)

D.C. doesn't require employers to provide bereavement leave.

No federal or state law requires an employer to provide paid, or unpaid bereavement leave or time off to plan or attend a close relative's funeral. An employer who decides to

provide bereavement leave must follow the bereavement policy or practice they have in place.

Payout

Bereavement leave is unpaid.

Jury Duty Leave in the District of Columbia

Employers are required to provide paid or unpaid leave (depending on the number of employees) for jury duty.

In the District of Columbia, an employer must not only give employees leave for jury duty but also pay them their regular wages for all working hours spent on jury duty.

Employers are not required to pay an employee for time spent on jury duty if they have fewer than 10 employees.

Employers with 10 or more employees must pay a full-time worker their regular wages for the first five days of jury duty, less the jury service fee. The daily jury service fee for jurors is \$30.00. After five days, jurors will receive only nominal compensation from the court for each day spent on jury selection (again, \$30.00).

An employer may not fire, threaten, or otherwise coerce employees because they receive or respond to a summons, serve as a jurors, or attend court for prospective juror service.

Payout

An employer pays

The first 5 days of the trial.

The state pays

Starting on the 6th day of service.

Military Leave in the District of Columbia

There are no state laws that apply; only the federal USERRA is used.

Some states have a law that guarantees private-sector employees time off for military duty. Still, the District of Columbia doesn't have such a law.

Private employers are only covered by the federal USERRA (Uniformed Service Employment and Reemployment Rights Act) of 1994 (38 USC 4301et seq.).

The federal law USERRA applies to all employers in the U.S. USERRA protects Army and Air National Guard members who are called away from civilian jobs for federal service.

Payout

Military leave is unpaid.

Voting Leave in the District of Columbia

2 hours of paid leave for voting.

The D.C. Leave to Vote Amendment Act requires all employers to provide employees with at least 2 hours of paid leave to vote.

This leave must be granted at the employee's request. Still, employers may require that the request be made a reasonable amount of time in advance. They may specify which hours, including early voting, will be used for voting.

Employers must post a notice about the law in a visible place.

Payout

An employer pays for the voting leave.