

PAID LEAVE FOR ALL WORKERS POLICY OPTIONS

OPTION 1 – Revise or enact Policy before January 1, 2024 to Ensure it is a “Qualifying Pre-Existing Paid Leave Policy”

IDOL guidance indicates that an employer will not be required to modify a pre-existing paid leave policy in effect on January 1, 2024 if the policy allows ALL employees (full-time, part-time, seasonal and temporary) to earn paid leave that they can use for any reason of the employee’s choosing. Full-time employees must earn 40 hours of paid leave per year, and part-time, temporary, or seasonal employees must earn a pro-rata amount.

Therefore, instead of enacting a policy that tracks all of the PLAWA requirements, an employer can consider enacting a policy or modifying the provisions of its existing paid leave policy before January 1, 2024, to ensure that ALL of its employees can earn 40 hours of paid leave (or a pro rata equivalent for employees who are not full-time) and that the leave can be used for any reason that the employee chooses.

If such a plan is in effect on January 1, 2024, it will likely qualify as a “qualified pre-existing paid leave policy.”

Commented [JM1]: These alternative policy options are intended to track the requirements of the Paid Leave for All Workers Act (PLAWA) which is scheduled to go into effect on 1/1/24. Employers should consult with their State’s Attorney, Corporation Counsel, or other legal advisor to determine the best way to comply with the Act. Employers may only need to revise their existing vacation, PTO, or sick leave policies (as necessary) to comply with PLAWA, instead of granting 40 additional hours of PLAWA leave.

According to IDOL guidance, if the employer’s current policy in effect on January 1, 2024 provides at least the minimum number of hours of leave to ALL employees to be used for any reason at the employee’s discretion, the policy does not need to be changed. We recommend that each public body examine its policies and determine what changes (if any) must be made to comply with PLAWA.

Employers should also be aware that school districts organized under the School Code and park districts organized under the Park District Code are not subject to the Paid Leave for All Workers Act (PLAWA).

In addition, students who are enrolled in and regularly attending a college or university who are employed on a temporary basis at less than full-time are not eligible for PLAWA leave. Similarly, a short-term employee who is employed by an institution of higher education for less than 2 consecutive calendar quarters and who does not have a reasonable expectation of rehire in a subsequent calendar year is not eligible.

Also, according to the Illinois Department of Labor, employers do not need to change leave provisions for employees covered by an existing collective bargaining agreement (CBA). But, when the CBA is amended after 1/1/24, the provisions of PLAWA can only be waived if the waiver is set forth in the CBA in clear and explicit terms.

OPTION 2: Incorporating ALL PLAWA Provisions and Leave Accrues Over Time

As used in this policy, “Employer” shall mean [insert name of entity].

This policy is designed to comply with Employer’s obligations under the Paid Leave for All Workers Act (hereinafter “PLAWA”) (820 ILCS 192/1 et seq.) In the event of any conflict between this policy and the law, the provisions of the law will govern.

In accordance with PLAWA, full time employees will accrue forty (40) hours of PLAWA leave (hereinafter PL) at the rate of one (1) hour of PL for every forty (40) hours worked, up to a maximum of forty (40) hours of PL in a 12-month period. Part-time employees will also earn one (1) hour of PL for every forty (40) hours worked in a 12-month period, up to a maximum of forty (40) hours of PL in a 12-month period.

The 12-month period for purposes of calculating PL shall be the calendar year. Employees shall be permitted to use accrued PL beginning on March 30, 2024 or ninety (90) days after the commencement of their employment, whichever is later.

Employer requires employees to provide seven (7) calendar days’ notice of the employee’s intent to take PL. If, however, the employee’s need to take PL is not foreseeable, the employee must provide notice as soon as is practicable after the employee is aware of the necessity of taking PL.

Employer may deny an employee’s request to use PL if granting leave would significantly impact business operations. The following is an illustrative (not exhaustive) list of reasons why requests to use PL may be denied:

- 1) Staffing would fall below minimum levels necessary to provide effective public service;
- 2) Emergency circumstances exist requiring employee attendance;
- 3) Employee absence would hamper Employer’s ability to meet critical workflow obligations or deadlines.

An employee is not required to search for or find a replacement worker to cover the hours during which the employee will be on PL. Employees may take PL in increments as small as two (2) hours unless the employee’s scheduled work day is less than two (2) hours, in which case, the employee’s scheduled work day shall be used to determine the amount of PL taken.

An employee may take PL for any reason of the employee’s choosing. An employee is not required to provide Employer with a reason for taking PL. Employer will not

Commented [JM2]: If an employer wishes to track all of the provisions of the PLAWA and have the leave accrue over time, Option 2 can be used as a guide.

Commented [JM3]: Employers can choose any consecutive 12-month period as its 12-month period for purposes of PLAWA. The sample policy is based on the calendar year.

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require the employee to provide documentation or certification of the reason that PL was taken. An employee may choose whether to use PL under this policy prior to using any other leave provided by Employer or State law.

Employees shall be paid their regular hourly rate of pay for PL.

At the end of a 12-month period, an employee may carry over accrued, unused PL into the next 12-month period. Employees may not carry over more than 80 hours of unused PL. An employee, however, may not use more than 40 hours of accrued PL in a 12-month period.

Employer does not credit PL under this policy to any other employee vacation bank or paid time off (PTO) bank. As a result, in accordance with PLAWA, Employer does NOT compensate employees for accrued, unused PL upon termination or separation from employment.

Employer shall maintain coverage for the employee and the employee's covered family members under any group health plan for the duration of PL at no less than the level and conditions of coverage that would have been provided if the employee had not taken PL.

Nothing in this policy shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with Employer through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards established under this policy.

For employees whose paid leave benefits are set forth in an existing collective bargaining agreement in effect prior to January 1, 2024, the leave provisions of the collective bargaining agreement shall control over conflicting provisions in this policy.

For any collective bargaining agreement entered into on or after January 1, 2024, if the collective bargaining agreement explicitly waives the requirements of PLAWA in clear and unambiguous terms, then the provisions of this policy will not apply to employees subject to such collective bargaining agreement.

If an employee is transferred to a separate division, entity, or location, but remains employed by Employer, the employee is entitled to all PL accrued at the prior division, entity or location and is entitled to use all PL in accordance with this policy.

If an employee is separated from employment with Employer, and is rehired within twelve (12) months of separation from Employer, previously accrued PL that had not

Commented [JM4]: While it is permissible to merge PLAWA leave with another paid leave bank like PTO or vacation, if the employer does so, it must then compensate employees for unused, accrued PLAWA leave upon termination or separation from employment. Therefore, if the employer chooses to merge PLAWA leave with vacation or PTO, then the highlighted paragraph needs to be revised to indicate that unused PLAWA leave will be paid out on termination or separation.

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been used by the employee shall be reinstated, and the employee shall be entitled to use it at the commencement of reemployment.

In accordance with PLAWA, Employer has posted the Department of Labor notice regarding PLAWA.

Employer will not retaliate against any employee because the employee (1) exercises rights or attempts to exercise rights under PLAWA, (2) opposes practices which the employee believes to be in violation of PLAWA, or (3) supports the exercise of rights of another person under PLAWA.

Employer will not consider the use of PL by an employee as a negative factor in any employment action that involves evaluating, promoting, disciplining, or counting paid leave under a no-fault attendance policy.

Commented [JM5]: The Department of Labor will issue a poster which all employers are required to conspicuously post in the workplace where such notices are typically posted. IDOL guidance indicates that the poster will be available on its website by the end of the year.

OPTION 3 – Incorporating ALL PLAWA Provisions and Leave is Awarded as Lump Sum

As used in this policy, “Employer” shall mean [insert name of entity].

This policy is designed to comply with Employer’s obligations under the Paid Leave for All Workers Act (hereinafter “PLAWA”) (820 ILSC 192/1 et seq.) In the event of any conflict between this policy and the law, the provisions of the law will govern.

In accordance with PLAWA, full time employees are awarded forty (40) hours of PLAWA leave (hereinafter PL) at the start of the 12-month period. Part-time employees will be awarded a pro-rata amount of PL at the start of the 12-month period based on the number of hours they typically work in a workweek.

The 12-month period for purposes of calculating PL shall be the calendar year. Employees shall be permitted to use PL beginning on March 30, 2024 or ninety (90) days after the commencement of their employment, whichever is later.

Employer requires employees to provide seven (7) calendar days’ notice that the employee will take PL. If, however, the employee’s need to take PL is not foreseeable, the employee must provide notice as soon as is practicable after the employee is aware of the necessity of taking PL.

Employer may deny an employee’s request to use PL if granting leave would significantly impact business operations. The following is an illustrative (not exhaustive) list of reasons why requests to use PL may be denied:

- 1) Staffing would fall below minimum levels necessary to provide effective public service;
- 2) Emergency circumstances exist requiring employee attendance;
- 3) Employee absence would hamper Employer’s ability to meet critical workflow obligations or deadlines.

An employee is not required to search for or find a replacement worker to cover the hours during which the employee will take PL. Employees may take PL in increments as small as two (2) hours unless the employee’s scheduled work day is less than two (2) hours, in which case, the employee’s scheduled work day shall be used to determine the amount of PL taken.

Commented [JM6]: If an employer wishes to track all of the provisions of the PLAWA and award leave as a lump sum, Option 3 can be used as a guide.

Commented [JM7]: Employers can choose any consecutive 12-month period as its 12-month period for purposes of PLAWA. This sample uses the calendar year as the 12-month period.

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An employee may take PL for any reason of the employee's choosing. An employee is not required to provide Employer with a reason for taking PL. Employer will not require the employee to provide documentation or certification of the reason that PL was taken. An employee may choose whether to use PL under this policy prior to using any other leave provided by Employer or State law.

Employees shall be paid their regular hourly rate of pay for PL.

At the end of a 12-month period, any unused PL is forfeited.

Employer does not credit PL under this policy to any other employee vacation bank or paid time off (PTO) bank. As a result, in accordance with PLAWA, Employer does NOT compensate employees for accrued, unused PL upon termination or separation from employment.

Employer shall maintain coverage for the employee and the employee's covered family members under any group health plan for the duration of PL at no less than the level and conditions of coverage that would have been provided if the employee had not taken PL.

Nothing in this policy shall be deemed to interfere with, impede, or in any way diminish the right of employees to bargain collectively with Employer through representatives of their own choosing in order to establish wages or other conditions of work in excess of the applicable minimum standards established under this policy.

For employees whose paid leave benefits are set forth in an existing collective bargaining agreement in effect prior to January 1, 2024, the leave provisions of the collective bargaining agreement shall control over conflicting provisions in this policy.

For any collective bargaining agreement entered into on or after January 1, 2024, if the collective bargaining agreement explicitly waives the requirements of PLAWA in clear and unambiguous terms, then the provisions of this policy will not apply to employees subject to such collective bargaining agreement.

If an employee is transferred to a separate division, entity, or location, but remains employed by Employer, the employee is entitled to all PL accrued at the prior division, entity or location and is entitled to use all PL in accordance with this policy.

If an employee is separated from employment with Employer, and is rehired within twelve (12) months of separation from Employer, previously accrued PL that had not

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Employer will not consider the use of PL by an employee as a negative factor in any employment action that involves evaluating, promoting, disciplining, or counting paid leave under a no-fault attendance policy.

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