

Insights, News & Events

CALIFORNIA FINALLY CLARIFIES KEY PAID SICK LEAVE DISCREPANCY FOR PART-TIME EMPLOYEES

Insights
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California employers recently got some welcome news when state regulators clarified the method by which you should apply new paid sick leave benefits to part-time employees. Without much fanfare or public announcement, the Division of Labor Standards Enforcement (DLSE) updated its clarifying FAQs governing the landmark expansion to the state's Paid Sick Leave (PSL) law that took effect at the start of the year – and answered a nagging question about part-time workers that has caused much confusion in the workplace.

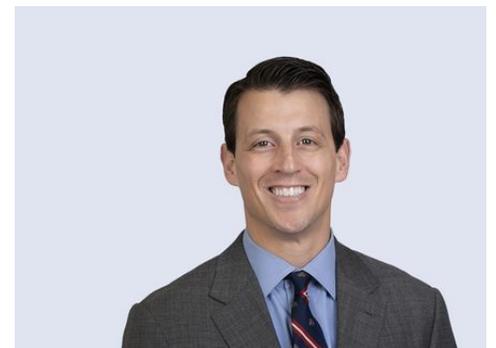
Setting the Stage

State lawmakers recently expanded PSL entitlements from 24 hours or three days to 40 hours or five days regardless of whether the PSL was provided under an accrual or frontload method. [You can read all about this change – and all of the changes to the law that took effect on January 1 – in our recap here.](#)

For employers utilizing a different accrual method, the revised legislation set forth specific time frames by which employees must accrue PSL: at least 24 hours of PSL by their 120th day of employment, and 40 hours of PSL by their 200th day of employment. However, the legislation and the DLSE's clarifying FAQs were initially silent as to how these benchmarks could be met by a part-time employee.

What About Part-Time Employees?

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Colin P. Calvert

Partner

[949.798.2160](tel:949.798.2160)

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Under the law, a part-time employee who accrues one hour of PSL for every 30 hours worked may not accrue at least 24 hours of PSL by their 120th day of employment, or 40 hours by their 200th day of employment. For example, an employee who works 20 hours a week would accrue .66 hours of PSL a week. By the 120th day of their employment, they would have accrued less than 12 hours of PSL. By the 200th day, less than 19.

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Because of that practical reality, it was unclear whether employers could continue to follow the 1:30 PSL accrual method for part-time employees. And while the first draft of the DLSE's FAQs was silent on the point, a recent change resolved that problem.

Critical Clarification Provides Relief for Employers

The DLSE FAQs now specifically affirm the use of a 1:30 PSL accrual system, regardless of the 120/200 day benchmarks. **As noted by the new language added by the agency, "in general terms (and subject to some exceptions), employees under an accrual plan must earn at least one hour of paid sick leave for each 30 hours of work (the 1:30 schedule)."**

In fact, the FAQs further clarify how employers utilizing a different accrual approach can remain in compliance with respect to part-time employees:

Although employers may adopt or keep other types of accrual schedules (other than 1:30), the schedule must result in an employee having at least 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment and 40 hours by the 200th calendar day of employment. If an employer is using the 1 hour of paid sick leave accrued for 30 hours worked or something more generous (e.g. 1 hour accrued of paid sick leave for every 20 hours worked), then the employer does not have to provide 24 hours or 3 days by the 120th day of the year and 40 hours or 5 days by the 200th day.

Because of these unique requirements under California's new PSL laws and the significant consequences employers will face for noncompliance, it is well worth reviewing these changes now and preparing well in advance of when you will need to start applying them to your part-time workforce. **[Editor's Note: While the update provided**

helpful clarification, it confirmed what most employers understood the rule to be: employers can use the 1:30 accrual method for part-time employees without meeting the 120/200 benchmarks.]

Conclusion

If you have questions regarding best practices for updating and implementing policies responsive to this new law, especially as it pertains to part time workers, please contact your Fisher Phillips attorney, the authors of this Insight, or any attorney in [our California offices](#) or any attorney in our [Employee Leaves Practice Group](#) should you have any questions.