

PROCEDURE

Earned Sick and Safe Time Procedure

HR 4-1t

Category: Human Resources

Business Unit Responsible: RA: Human Resources

Procedure Owner: Chief Human Resources Officer

Procedure Contact: Marcy Cordes, Chief Labor Relations Officer

Synopsis: Describes the Metropolitan Council's implementation of Minnesota's Earned Sick and Safe Time law requirements including leave accrual, usage, and responsibilities.

GOVERNING POLICY

[HR 4-1 Benefits Policy](#)

PURPOSE

The purpose of this procedure is to establish the Metropolitan Council's Earned Sick and Safe Time Procedure in accordance with the Minnesota Earned Sick and Safe Time law, Minn. Stat. §§ 181.032, 181.9445-.9448.

DEFINITIONS

<i>Annual Leave</i>	Leave that is paid at the employee's hourly rate that accrues at a rate and under the conditions designated by the employee's applicable collective bargaining agreement or Non-Represented Plan (where the agreement or plan does not provide for accrued leave) and can be used for any purpose, including earned sick and safe time purposes.
<i>Domestic abuse</i>	As defined in Minn. Stat. § <u>518B.01</u> .
<i>Earned Sick and Safe Time ("ESST")</i>	<p>Leave that is paid at the employee's hourly rate that may be used for an earned sick and safe time (ESST) purpose:</p> <ul style="list-style-type: none"> • Absence due to an employee's mental or physical illness, treatment, or preventive care • Absence due to 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

- Absence due to 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
- Absence due to a determination 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

ESST Tracker The ESST Tracker is shown on employee pay stubs and shows hours used and labeled as ESST in any calendar year. The tracker is not an additional paid leave accrual bank.

Employee Any employee who is employed by the Metropolitan Council, including temporary, seasonal, and part-time employees who work at least 80 hours in a calendar year. Independent contractors are not employees.

Family member Employees may use ESST for the following family members:

- Their spouse or registered domestic partner
- Their child, 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)
- Their sibling, step sibling, or foster sibling
- Their biological, adoptive or foster parent, stepparent, or a person who stood *in loco parentis* when the employee was a minor child
- Their grandchild, foster grandchild, or step grandchild
- Their grandparent or step grandparent
- A child of a sibling of the employee
- A sibling of the parent of the employee
- A child-in-law or sibling-in-law
- Any of the above family members of 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
- Up to one individual annually designated by the employee

Health care professional Any person licensed, certified, or otherwise authorized under federal or state law to provide medical or emergency services, including doctors, physician assistants, nurses, advanced practice registered nurses, mental health professionals, and emergency room personnel.

Leave designated as earned sick and safe time Earned sick and safe time may be in the form of paid leave used (e.g. Annual Leave, Sick Leave).

Sexual assault An act that constitutes a violation under Minn. Stat. §§ 609.342 to 609.3453 or 609.352.

Sick Leave Leave that is paid at the employee’s hourly rate that accrues at a rate and under the conditions designated by the employee’s applicable collective bargaining agreement and that can be used for incapacitation, treatment, or preventative care for a medical or mental health condition. Sick Leave may also be used for earned sick and safe time purposes.

Stalking As defined in Minn Stat. § 609.749.

PROCEDURE

Leave Criteria

1. Accrual

- **Regular full-time employees and part-time employees who work at least 80 hours in a calendar year.** The Metropolitan Council's Annual Leave and Sick Leave Procedures permit the use of Annual Leave and Sick Leave for ESST purposes. The applicable collective bargaining agreements and Non-Represented Plan provide leave accruals that exceed Minnesota ESST requirements; therefore, the Metropolitan Council's Annual Leave and Sick Leave will be considered ESST for the purpose of statutory requirements and no additional time shall be added to employees' current Annual Leave or Sick Leave bank accruals for ESST. Employees are allowed to carry over more Annual Leave and Sick Leave than required by the Minnesota ESST law. Therefore, no adjustments shall be made to the current Annual Leave and Sick Leave carryover limits.
 - **Temporary and seasonal employees, and interns.** Employees will accrue earned sick and safe time at the rate of one (1) hour for every thirty (30) hours worked, up to 48 hours a year. Earned sick and safe time may be used for earned sick and safe time purposes and will be considered ESST for the purposes of the statutory requirements. This leave will be paid out upon separation.
2. **Carryover.** If less than 48 hours of paid leave is designated as earned sick and safe time during the calendar year, the ESST tracker will carry over any of the 48 hours remaining. Earned sick and safe time used may not exceed 80 hours.
3. **Designation of earned sick and safe time.** An employee's first 48 hours of paid Annual Leave, Sick Leave, or ESST used during a calendar year will be designated as ESST, regardless of the reason for the usage.
4. **What earned sick and safe time may be used for.** Earned sick and safe time may be used for the following:
- An employee's mental or physical illness, treatment or preventative care
 - A family member's mental or physical illness, treatment, or preventative 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
 - When determined by a health authority or healthcare professional that the employee or a family member is at risk of infecting others with a communicable disease

Employee Responsibilities

1. Advance notice for use of earned sick and safe leave

- **Foreseeable** - If the use of earned sick and safe time is foreseeable, the employee is required to provide at least seven (7) days' advance notice.
- **Unforeseeable** - If the use of earned sick and safe time is unforeseeable, the employee must provide notice as soon as practicable.

2. **Coverage of shift** - In accordance with state law, the employee is not required to find a replacement worker to cover earned sick and safe hours taken.
3. **Documentation** - When an employee uses earned sick and safe time for more than three (3) consecutive days, the employee may be required to provide appropriate documentation, such as medical documentation that supports medical leave, court records, or related documentation. However, if the employee or employee's family member did not receive services from a health care professional, or if documentation cannot be obtained from a health care professional in a reasonable time or without added expense, then reasonable documentation may include a written statement from the employee indicating that the employee is using or used earned sick and safe time for a qualifying purpose. An employee will not be required to disclose details related to domestic abuse, sexual assault, or stalking, or the details of the employee's or the employee's family member's medical condition.

Data classification, notice, and record keeping

Data classification – Any information obtained regarding the use of earned sick and safe time is regarded as private personnel data and will not be disclosed except to employees within the Metropolitan Council who require access to perform their job duties, vendors who require access to complete contractual requirements for the Metropolitan Council, people permitted to receive the data through a release signed by the employee, people or entities ordered by a court, or people or entities who have access to the data as required by state or federal law. Records or documents relating to medical certifications, recertifications, or medical histories of employees or their family members will be treated as medical records and will be maintained in the employee's medical file. Employees may request that earned sick and safe time records older than three (3) years prior to the current calendar year be returned to the employee or destroyed.

Earned sick and safe time utilization and balance – Used leave labeled “ESST” (including Annual Leave and Sick Leave) and any accrued hours remaining will be shown on the employee's pay stub. In addition, employees can access the balance and utilization information via Employee Self Service.

Return to work protections

An employee returning from earned sick and safe leave is entitled to return to their previous position at the same rate of pay received when their earned sick and safe leave began, plus any automatic pay adjustments that may have occurred during the leave. Time taken for earned sick and safe leave will not be counted against an employee's seniority.

Right of review

If an employee believes they have been retaliated against or improperly denied earned sick and safe time, they can file a complaint with the Minnesota Department of Labor and Industry or to Human Resources via [EthicsPoint](#).

Retaliation prohibited

The Metropolitan Council shall not discharge, discipline, penalize, interfere with, or otherwise retaliate or discriminate against an employee for asserting earned sick and safe leave rights, requesting earned sick and safe time absence, or pursuing remedies. Further, use of earned sick and safe leave will not be factored into any attendance matter and may not be counted as an attendance occurrence under any attendance policy or procedure. In addition, it is unlawful to report or threaten to report a person or a family member's immigration status for exercising a right under earned sick and safe time regulations.

ROLES & RESPONSIBILITIES

Role	Responsibilities
Employees	<p>Communicate appropriately with managers/supervisors and Human Resources regarding time off requests, schedules, and other relevant information as needed.</p> <p>Accurately enter time into timekeeping system.</p> <p>Review Employee Notice as needed.</p> <p>Promptly provide requested documentation.</p>
Managers & Supervisors	<p>Understand and comply with the Earned Sick and Safe Time Procedure and other leave entitlements under federal and state law, Metropolitan Council policies and procedures, and union contracts/Non-Represented Plan. Ensure Employee Notice is posted at individual work sites.</p> <p>Review and approve employee time entries for completion and accuracy.</p> <p>Communicate appropriately with employees and Human Resources regarding absence management and other relevant information as needed.</p>
Department Heads	<p>Understand and comply with the Earned Sick and Safe Time Procedure and other leave entitlements under federal and state law, Metropolitan Council policies and procedures, and union contracts/Non-Represented Plan. Ensure Employee Notice is posted at individual work sites.</p> <p>Review manager and supervisor compliance and communicate with Human Resources when deficiencies are noted.</p> <p>Communicate appropriately with employees and Human Resources regarding absence management and other relevant information as needed.</p>
Human Resources	<p>Establish, implement, and modify procedures necessary to comply with this procedure in accordance with applicable laws, policies, and rules.</p> <p>Provide guidance and information to employees about the Earned Sick and Safe Time Procedure.</p> <p>Provide guidance and information to managers and supervisors about the Earned Sick and Safe Time Procedure and absence management.</p> <p>Review questions and concerns submitted by employees and managers.</p> <p>Ensure medical information is handled confidentially and placed in the employee's medical file.</p>

RESOURCES

Related Policies

- [HR 4-1 Benefits Policy](#)

Related Procedures

- [HR 4-1c Leaves of Absence Procedure](#)

Statutory Resources (Minnesota Statutes or Rules, U.S. Code, Federal Regulations)

- Minn. Stat. §§ 181.032, and 181.9445-.9448

Forms, Templates, Work Instructions or Job Aids

- [Employee Notice](#)

Other Resources (training, relevant links)

-

Internal Resources

-

Keywords:

HISTORY

Version 1 – Approval Date

12/28/2023

Last Reviewed Date

12/29/2023

Next Content Review Date

09/01/2024

Former Reference

Version

1