



Learning from Predecessors but Breaking New Ground

Lessons from Tacoma's Paid Sick and Safe Time Outreach and Enforcement¹

November 29, 2016 | Zoe Ziliak Michel

In 2015, Tacoma became the second city in Washington to pass a paid sick and safe time law, which the city refers to as the Paid Leave Ordinance (PLO). Thanks to the work of the Healthy Tacoma coalition and its allies, workers in the city of just over 200,000 can now take time to care for themselves and family members without losing their paychecks.²

But just having a law on the books isn't enough. A dedicated enforcement agency must take on the task of raising public awareness about the law, helping employers comply, and ensuring that workers get the protections they are due. The city of Tacoma created a new Office of Minimum Employment Standards (ES) in its Tax and License Division to implement and enforce the PLO and the city's minimum wage ordinance, both of which took effect February 1, 2016.

This brief highlights ES's approaches to implementing and enforcing its paid sick time law, emphasizing lessons learned and best practices established by both the agency and partner organizations in the community. We hope it will be a helpful guide for other jurisdictions as they embark on enforcing similar laws.

TIP: Consult with More Experienced Enforcement Agencies

Tacoma worked extensively with Seattle's Office of Labor Standards, New York City's Department of Consumer Affairs, and other agencies to design its office's outreach and enforcement procedures in advance of the PLO implementation date.

CLASP hosts peer-to-peer conference calls for paid sick time enforcement agencies and advocates as well as an annual conference, Making Paid Sick Days Work: Sharing Strategies. To join CLASP's paid sick time enforcement mailing list, please email jobquality@clasp.org, and visit enforcingsickdays.org to view outreach and enforcement materials from jurisdictions around the country. To learn about additional paid sick time enforcement agencies' strategies, see the other pieces in this CLASP series:

- [The First State: Implementing Connecticut's Sick Days Law](#)
- [First Out of the Gate: San Francisco's Sick Days Law](#)
- [Learning from Seattle's Experience](#)
- [Top Tips from San Francisco, Seattle, and New York City](#)

Tacoma's Paid Leave Ordinance

Tacoma's PLO requires that all employers allow their employees who work in the city for at least 80 hours in the year to accrue paid sick time.³ Part-time workers and temporary employees are covered by the PLO, though government and work-study employees are not. Covered employees accrue 1 hour of sick time for every 40 hours worked, up to a cap of 24 hours per year.⁴ Workers begin accruing sick time immediately but do not become eligible to use the time until the 180th calendar day after they are hired. Workers may carry over up to 24 hours of unused sick time to the next calendar year but may only use 40 hours of paid sick time per year.

Workers can use paid sick time to attend to their own physical or mental illness or injury; to seek diagnosis, medical treatment, or preventive care; to care for a family member who is ill or injured or who needs medical or preventive care; or to grieve the death of a family member. Paid sick time may also be used when the employee's place of business or child's school has been closed by a public official. Finally, workers may use leave as safe time to seek services or take legal action when they or their family members are victims of domestic violence, sexual assault, or stalking. Employers may also apply for approval to provide premium pay in lieu of paid sick time.⁵

In addition to restitution to wronged employees, violations of the PLO can lead to a \$250 civil penalty; employers who *willfully* violate the ordinance may be subject to a civil fine of at least \$250 and up to twice the value of the paid sick time they failed to provide to their employees. Violations may further lead to revocation of the employer's business license. However, the PLO instructs the enforcement agency to settle violations by agreement when possible.

TIP: Select an Enforcement Agency with Labor Standards Enforcement Experience

Consider assigning responsibility for paid sick time enforcement to an agency that enforces other labor laws, such as minimum wage, wage theft prohibitions, and fair chance employment standards. By applying existing expertise in labor standards enforcement to paid sick time, the agency can improve enforcement of multiple laws by investigating an employer for violations of *all* labor laws when *any* violation is alleged. The experiences of many enforcement agencies suggest that an employer committing wage theft may also be in violation of a sick time law.

The City's Outreach Procedures

The Rulemaking Process and Public Input

Because there was a full year between passage of the PLO and its implementation, the Tacoma ES was able to publish final rules for the ordinance well in advance of implementation. To create the initial draft rules, the agency drew on both published paid sick time rules from other jurisdictions and the legislative record of city council meetings.⁶

ES then scheduled a series of four public hearings over three months to solicit comments on the draft rules. Having multiple hearings has several benefits, according to Melanie Harding, the program manager for Tacoma ES. First, holding the hearings on different days of the week and times of day gives community members with varied schedules the opportunity to participate in at least one meeting. Second, Harding notes that the quality of the feedback improved with each sequential hearing. "During the first

TIP: Build a Mailing List Early

Start building a mailing list during the rulemaking process. ES built its initial e-mail list from attendees at the public hearings. As of October 2016, the list had nearly 850 subscribers. The mailing list can be used to inform the public about new enforcement initiatives, changes to the law or rules, or existing aspects of the law they may not have noticed. For example, during back-to-school season, ES sent out a reminder that parents can use paid sick time both to care for sick children and to watch their kids on snow days.

meeting, community members and stakeholders offered impassioned testimony on the law itself,” rather than commenting on the proposed rules, she says. Business owners and worker groups turned out to voice their opposition to or support of the original PLO. “After that first meeting, we saw the tone shift dramatically. It shifted toward giving feedback and asking questions about the rules themselves.” In later hearings, once the business community had had time to adjust to the idea that paid sick time would be mandated, hearing participants began giving substantive feedback on the content of the proposed rules and asking questions about how they should prepare to implement the law in their businesses. Holding several hearings allows community members to both air their grievances and contribute to the rulemaking process.

TIP: Begin Developing an Outreach and Enforcement Database as Soon as Possible

Tacoma started building the PLO and minimum wage database during the rulemaking process. The database, built into the city’s existing SAP software, was thus ready for use soon after the ordinances took effect. Tacoma’s ES database links to the city’s business licensing database, so a city employee looking up whether a business’s license is current will also see whether that employer has been informed about the PLO, whether the employer has faced allegations of wage theft, etc.

Selected information tracked in the ES database:

- Number of complaints filed
- Number of employees assisted
- Amount recovered by employees
- Average length of time to resolution
- Number of cases by allegation type
- Number of cases appealed

In addition to individual business owners and workers, employer groups and workers’ groups participated in the rulemaking process. For example, the United Food and Commercial Workers (UFCW) actively contributed to the rulemaking process, pointing out where they thought the ordinance was unclear and suggesting how the rules could clarify these aspects.

Following the first two public hearings, again after the third hearing, and yet again after the fourth, ES revised its draft rules and solicited additional feedback from all stakeholders. These multi-stage revisions

allowed the attendees who voiced opinions on the rules at the first two meetings to weigh in later on whether the proposed revisions adequately addressed their concerns. This process helped give community members confidence that their voices were being heard.

Stakeholder feedback across the entire rulemaking process led to substantive changes in the draft rules. For example, employer feedback led ES to include a rule allowing employers to offer employees their choice of either carrying over their unused paid sick time or having it cashed out at the end of the calendar year. The agency also added a rule to clarify that employers may not use a “point” system in which employees receive demerits for using their paid sick time, and rules were added to clarify the definition of *calendar year* and the options for shift swapping.

(ES has also kept a running list of public feedback as well as internal suggestions for improving policies. The agency is now referring to its running list while considering future revisions to the PLO rules.)

After the last round of comments and revisions, the final rules were published in August 2015, six months before the law took effect.

Informing the Public about the Law

ES uses a combination of traditional and innovative methods to inform business owners and workers about the PLO. Through the first quarter of 2016, when the law first took effect, the city ran a paid advertising campaign to inform the public about the new law through social media, newspaper, and other advertising. The agency also sent out a PSA in English and Spanish that was broadcast on local radio stations. Since this initial major push ended, advertising has continued on public transportation—the city’s bus and light rail system. ES believes the most effective outreach efforts are those that reach the public in the course of their daily lives, such as when they are riding to work. This coordinated educational advertising campaign cost approximately \$18,000 from its start through October 2016.

Tacoma pursues additional “daily life” outreach by placing flyers in laundromats so that people can learn about the PLO while they do their laundry. Posters are also available in doctors’ offices, and information about the PLO’s safe time protections is placed in domestic violence survivor services offices.

ES has struck two birds with one stone at 52 child care centers, where outreach was aimed at making sure parents knew of their right to use paid sick time to care for their sick children. ES emphasized to the child care centers that when parents keep sick children at home, the children and staff at the center are better able to stay healthy. Participating centers distributed PLO information to about 2,100 parents; 17.5

TIP: Take Time to Design an Effective Website

Invest time in developing an intuitive website. Before the PLO went into effect, Tacoma spent time designing an easy-to-navigate, visually appealing website with information for both workers and employers. Consequently, the public can easily find the information they’re seeking without having to call for assistance. The effort spent upfront on website design has led to time savings on customer service calls. (ES designed the website with assistance from the city’s Media and Communications Office, so building the site did not require additional budget beyond the cost of staff time.)

Highlights from the [Tacoma Paid Leave Ordinance website](#):

- Pages with information specifically for [employees](#) and [employers](#)
- [Workplace notices in six languages](#)
- [Poster for use in doctors' offices and clinics](#)
- [Poster highlighting safe time benefits](#)

percent of the materials distributed were in a language other than English. Moreover, several of the child care centers realized that they were not in compliance with the PLO and took steps to remedy this. This successful outreach program simultaneously informed working parents of their rights and spurred employers to comply with the law.

TIP: Highlight Safe Time During Domestic Violence Awareness Month

Domestic Violence Awareness Month in October is a great time to get the word out about safe time. Tacoma has launched special awareness campaigns during October with posters and presentations about the law's safe time provisions for service providers who work with domestic violence survivors.

Another innovative approach from the city helped ensure that employers in retail and fast food, industries in which employers frequently do not provide paid sick time, knew about the PLO. Targeting retail chains in the local mall and fast food franchisees, ES sent letters to both the *local* locations' managers and the *national* chain headquarters. This ensured that the national management was aware of the Tacoma ordinance and could help to increase local stores' compliance. Because national headquarters are invested in maintaining the brand's reputation, Tacoma expected the central locations to be motivated to make sure their local branches complied with the law.

ES has also emphasized multilingual outreach. Over 40 percent of Tacoma residents are foreign-born, and more than 50 percent speak a language other than English (although they may also speak English). To help this significant population of workers understand their rights—and non-English-speaking business owners understand their responsibilities—ES has made posters and other materials available in six languages. One ES staff member is bilingual, which improves his ability to liaise with the public. ES has also educated workers about the PLO by setting up information tables at job fairs aimed at the immigrant community and other community events. This effort has resulted in additional claims filed by workers. In October 2016, the agency began a pilot program of monthly “Worker Information Hours” held at a local center that provides ESL classes and other services. In 2017, ES also plans to have an information table at a free Spanish-language tax preparation event.

Collaborations with Employer Associations and Trade Groups

ES has partnered with industry organizations and unions to help get the word out about the PLO.

CPAs and Bookkeepers

Harding notes that certified public accountants (CPAs) and bookkeepers “are the primary source of employment law information and payroll services for a lot of small businesses, particularly businesses whose owners may not have English as a first language.” Consequently, ES called 75 local CPAs and bookkeepers to offer them information on the PLO and minimum wage laws to share with their clients. A majority of the CPAs and bookkeepers they contacted agreed to have ES send them the information, and over half also signed up for ES's mailing list. This partnership ensures that small businesses in Tacoma will be receiving accurate information about the city's labor laws from advisors whom they already trust.

Employer Associations

The enforcement agency also formed active partnerships with the Washington Restaurant Association and Washington Lodging Association, which have since merged to form the Washington Hospitality Association. ES gave presentations at association meetings to reach business owners directly, and the agency and association shared ideas while developing informative materials.

The association decided to break the information about the PLO into manageable chunks for its members. They divided the information into eight separate emails, which they asked ES to review for accuracy (though the city did not officially endorse or approve the emails). The association then sent out one email per week so that members would have time to digest each piece of information before receiving the next. This makes the task of complying less daunting for business owners.

The association also created model paid sick time policies for its members. ES was unable to supply these models as doing so could create liability or constitute provision of legal advice. Employer associations sometimes have more leeway than enforcement agencies to provide direct advice to employers.

Bruce Beckett, who leads the Washington Hospitality Association's government affairs team, says, "We feel an obligation to make sure our members have the best information possible on changes that could affect their business operations. They should have good objective information to understand what they need to do."

Partnering with employer associations, particularly those representing industries such as hospitality in which workers often do not receive paid sick time, helps ensure that more business owners know about and understand the law, which in turn promotes compliance. The Washington Hospitality Association appreciated the chance to create an alliance with the city to help their members understand the new law. Beckett states, "The city's been a fantastic partner."

Unions

ES further partnered with two union locals, UFCW Locals 367 and 21, to both develop the PLO rules and inform workers about their new rights under the ordinance. UFCW was an important partner in revising the draft rules, while ES in turn came to UFCW meetings to present information about the ordinance directly to union members. Separately, UFCW trained its representatives on the relationship between the ordinance and their contract, so that they could serve as resources for members needing guidance. The union also educated employers about the law when its members' employers were not yet fully complying. UFCW representatives have met with the employers to explain the law and helped workers initiate the grievance process. Employers approached by union representatives about the ordinance have generally come into compliance promptly.

Enforcing the Law

Tacoma's enforcement process generally begins when a worker (or third party, such as an advocate or another employer) files a complaint with the city.⁷ Alternatively, if workers do not feel comfortable filing a formal complaint, they can informally speak with the agency, which will then, if the worker agrees, send a courtesy letter to the employer simply informing them about the Minimum Employment Standards

ordinances and encouraging them to verify that they are in compliance. ES ensures that workers know they have the right to take additional action, including filing a formal complaint, if their work conditions do not improve.

After the complaint is filed, the agency does an intake interview with the complainant. Interviews may be in person but are usually over the phone, as this tends to be more convenient for the workers. Agency officials will also stay late to call the complainant in the evening if that is when the worker has time.

During the interview, the agency official asks the complainant about violations of *all* local labor law violations, not just the law cited by the employee. For example, oftentimes a worker will file a complaint about a minimum wage violation, but the interview will reveal a PLO violation as well.

If the intake interview confirms that a violation may have taken place, ES will open a *workplace-wide* investigation; the agency requests records for all employees of the business, not just the one who filed the complaint. This is useful for two reasons: First, it allows more workers to receive deserved restitution. Experience shows that if a business is violating one employee's rights under the PLO, it is likely doing so to other workers. This includes workers who may not feel comfortable filing a complaint but who nonetheless deserve to receive their legally guaranteed paid sick time. Second, this practice helps maintain the complainant's anonymity. If ES requested records for one employee only, the employer would likely know who filed the complaint and might retaliate against that employee. Workplace-wide investigations reduce the threat of retaliation. (Other jurisdictions such as San Francisco and Seattle also conduct workplace-wide investigations when enforcing their paid sick time laws.)

To begin the investigation, ES sends an advisory letter to the employer. The advisory letter notifies the employer that the agency has received a complaint and offers the employer the chance to respond prior to the filing of a formal charge. The letter asks that the business submit documentation, such as payroll records for all employees, demonstrating that it is in compliance with the law. The employer also has the option of requesting a settlement agreement.

If the employer does not respond, a formal charge may be filed. However, most employers promptly provide the requested documentation. (As of October 2016, only one employer had failed to respond promptly to ES, leading to the filing of a formal charge.) At this point, ES reviews the documents and may request more if necessary. ES staff members then interview parties and witnesses to collect more evidence. Interviews are conducted with a sample of the business's employees as well as with the business owner, manager, and/or HR director—whoever is most familiar with the day-to-day practices in the workplace.

At this point, if ES has confirmed that a violation has taken place, the agency attempts to settle the case by agreement (per the ordinance's instructions). Settlement agreements must at least make the employees whole. That is, if employees have not been accruing paid sick time, the settlement must award them at least as much sick time as they would have accrued since the ordinance took effect. If they have taken unpaid sick time since the PLO's effective date, they must be paid for that time. Agreement terms may also involve greater restitution than simply making employees whole.

The settlement agreement also includes a compliance requirement. The employer must agree to comply with the PLO in the future and must provide documents proving compliance from one to three months

after the investigation is closed, depending on the agreement.

If a settlement agreement cannot be reached, a formal charge will be filed, which can lead not only to restitution for the employees, but also to assessment of civil penalties.

Since the PLO and the minimum wage ordinance took effect in February 2016, ES has been tracking complaints received and resolved for the two ordinances together. As of October 2016, ES had received 34 allegations of violations, including 15 for the PLO only and 11 for both minimum wage and PLO. Of the 34 total allegations, 25 had been resolved, including 7 resolved by sending a courtesy letter to the employer and 9 resolved by settlement agreement. For the PLO specifically, ES resolved complaints leading to 603 hours of paid sick time valued at \$8,316 being recovered for employees.

Conclusion

Thanks to early planning and attention to best practices from other agencies, Tacoma's Office of Minimum Employment Standards is off to an impressive start in enforcing the city's paid sick time ordinance. Well before the ordinance took effect, ES engaged the public and stakeholders such as unions and employer associations in developing rules and getting the word out. The agency also devoted time to studying other jurisdictions' practices, developing a user-friendly website, and preparing a clear process for dealing with complaints. Just as Tacoma continues to learn from other jurisdictions, it is also already setting an example for colleagues in other jurisdictions just beginning to implement paid sick time laws.

Endnotes

¹ I am grateful for many people's input in the preparation of this brief, particularly Melanie Harding, Sergio Flores, and Danielle Roose at the City of Tacoma; Nathe Lawver and Renee Ruiz of UFCW Local 367; and Bruce Beckett and Samantha Louderback of the Washington Hospitality Association.

² <https://healthytacoma.net/>

³ The full text of the PLO is available at <http://cms.cityoftacoma.org/Finance/paid-leave/Tacoma-Paid-Leave-Amended-Ordinance28275.pdf>. For a summary of this and other paid sick days laws, see <http://www.abetterbalance.org/web/images/stories/Documents/sickdays/factsheet/PSDchart.pdf>.

⁴ The PLO sets minimum standards; employers may provide more generous policies.

⁵ The premium pay option, if the employer's plan is approved by ES, means that instead of accruing one hour of paid sick time for every 40 hours worked, employees receive one hour of extra pay for every 40 hours worked. As of October 2016, Tacoma had approved only 21 premium pay plans, many of them for businesses that find it simpler to provide premium pay to their on-call employees than to determine whether an on-call employee has the right to use paid sick time for a particular day when they

STAFFING THE AGENCY

Tacoma's Office of Minimum Employment Standards has three full-time employees working to enforce both the PLO and the minimum wage ordinance for the city.

The *program manager* heads the office, oversees the other staff, and coordinates all outreach and enforcement efforts. She serves as a liaison to the community, other city government agencies, and other enforcement agencies around the country. She measures enforcement performance and reports to Tax and License senior management and the city council.

The *employment standards analyst* focuses primarily on investigations of employers against whom complaints have been filed. He also helps with outreach and contributes to policy development as needed. The office has budgeted for two employment standards analysts and will hire a second should the caseload increase.

Finally, the *customer service representative* responds to questions from the public about the laws, provides basic information about the ordinances, and refers inquiries to the program manager or employment standards analyst as needed.

may or may not have been called in. For more information, see

https://www.cityoftacoma.org/government/city_departments/finance/minimum_employment_standards/paid_leave/employers/premium_pay.

⁶ For the texts of rules for paid sick time laws in jurisdictions nationwide, see

<http://www.enforcingsickdays.org/resourcetag/rules-and-regs/>.

⁷ The online complaint form can be found at

<https://www.cityoftacoma.org/cms/one.aspx?portalId=169&pageId=38900&rqst=84>.