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Paid Sick Days in Minneapolis

Lessons on Implementation and Enforcement

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Introduction

On May 27, 2016, the Minneapolis City Council unanimously passed a historic **paid sick leave ordinance**, making it the first city in Minnesota to require certain employers to provide paid sick leave to covered employees.¹ Because Minneapolis is the largest city in the state, this win gave advocates and organizers the momentum needed to advocate for and eventually pass a paid sick leave law in two other Minnesota cities: St. Paul and Duluth.

Significantly, the passage of the Minneapolis ordinance was the first of six paid sick leave laws that have passed in the Midwest. The Minneapolis ordinance gave access to sick and safe time to approximately 100,000 workers—almost a quarter of the city’s 425,000 residents—who previously did not have any form of paid sick leave.^{2, 3}

CLASP understands the importance of implementation and enforcement in creating effective policy change. Moving a law from paper to practice can make or break its intent. This brief will highlight the process through which advocates advanced sick and safe time legislation and describe best practices established by the agency and partner organizations to educate the community about the new law.

This brief can also serve as a helpful guide to other jurisdictions as they pass, implement, and enforce similar laws.

Ordinance Details

The Minneapolis Sick and Safe Time ordinance guarantees access to job-protected time off for employees across the city.⁴ If an employer has six or more employees, the provided sick and safe time must be paid. For businesses with five or fewer employees, the employer must still provide sick and safe time, but the employer has the option to provide it unpaid.

Under the ordinance, eligible employees include full-time, part-time, and temporary employees or paid interns who have worked in Minneapolis for the same employer for at least 80 hours in a 12-month period.

Accrual

Covered employees accrue a minimum of 1 hour of sick and safe time for every 30 hours worked within the geographic boundaries of the city and can accrue up to 48 hours of time in a calendar year.⁵ Once 90 calendar days have passed from the start of employment, employees can begin using their accrued time.⁶ In circumstances where employees do not use all their sick time, they can carry over and accrue a total of 80 hours from one year to the next. Employers can choose to provide higher calendar and carryover accrual limits.

Usage

Sick time can be used for an employee's personal health or the care of a family member. Family member means the employee's child, stepchild, adopted child, foster child, adult child, spouse, sibling, parent, step-parent, mother-in-law, father-in-law, grandchild, grandparent, guardian, ward, household members, or registered domestic partner. The "safe time" language of the ordinance allows employees to take time off to deal with needs related to domestic violence, sexual assault, and stalking.

History

The fight for sick and safe time in Minneapolis was five years in the making. The idea originated with local community members and leaders who were seeking ways to improve people's lives. Mayor Betsy Hodges first proposed the ordinance as part of her *Working Families Agenda—a State of the City Address* in which she laid out a set of progressive proposals representing the will of residents, advocates, and community-based organizations in Minneapolis. Ultimately, advocates worked with the city council to focus on passing sick and safe time. To further these efforts, the mayor and city council established the Workplace Partnership Group (WPG) and tasked it with studying the impact of sick leave in the community and developing policy recommendations for the city council.⁷

The Role of the Workplace Partnership Group

The WPG fit in with Minneapolis's long history and practice of supporting policies that create fair, safe, and healthy standards for working people. For example, the city created a community health board that identifies and addresses local public health needs.⁸

In similar fashion, the WPG recruited representatives from business groups, worker centers, unions, advocates, and other affected parties to join the newly established workgroup. Co-chaired by an advocate and business representative, the WPG created a robust community engagement plan to ensure representation across Minneapolis when developing policy recommendations for earned sick and safe time legislation.

In crafting these recommendations for the city council, the WPG used a consensus-based model for decision-making throughout the process and reserved majority voting for decision-making on the actual policy recommendations to the council.⁹ More importantly, the

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members shared an understanding that they would deliver recommendations to the city council with a broad agreement on key elements of a sick and safe time ordinance. The group held its first orientation meeting on December 3, 2015 and reported its policy proposals on March 16, 2016.

To learn more about existing paid sick days research, the group asked the Minneapolis Department of Health to present its findings on the local impact of a potential paid sick days ordinance.¹⁰ The presentation described how the policy could play out in such specific cases as health emergencies, preventing the spread of communicable diseases, and caring for sick family members. Including the health department's perspective in the paid sick days campaign was important to quantify the local impact this policy could have as a tool to improve public health. The city's health department investigation revealed large disparities in access to sick leave, particularly among workers in the service sector and showed an even higher lack of access concentrated among the lowest wage earners in this sector. Other groups of workers with little access to sick leave included pre-school teachers and workers in child care centers and personal care services.

Early Community Engagement and Advocacy

The WPG began its community engagement effort by soliciting input through listening sessions, focus groups, comment cards, and other methods of seeking suggestions and guidance from the community. Capitalizing on the WPG's diverse representation, members reached out to their own constituencies to connect with a broad array of stakeholders—specifically communities of color and immigrant-owned businesses. From the time the WPG formed to when the group presented its findings and recommendations to the city council, the WPG held 14 listening sessions reaching a broad range of sectors and constituencies and 2 public hearings in North and South Minneapolis.

Throughout the campaign, community groups and unions continued to apply pressure to the city council and the WPG to create a robust law with practical mechanisms that would make the law easy to enforce.

Using existing institutional relationships, unions and community groups successfully lobbied the city council and expressed their concerns to the WPG. As union groups—American Federation of State, County, and Municipal Employees (AFSCME), Service Employees International Union (SEIU), and the Minneapolis Regional Labor Federation—took the lead, community groups like Centro de Trabajadores Unidos en la Lucha (CTUL), Neighborhoods Organizing for Change, Main Street Alliance (MSA), and others took charge in finding workers and small business owners who could attend public hearings to continue adding pressure on city leaders to pass the legislation.

WPG Recommendations

In late February 2016, after much debate, community engagement, and research, the WPG began the next phase of its charge—crafting policy recommendations to the city council for a paid sick days policy. The WPG included information about a potential scope, how the new benefit could be used, a recommended accrual mechanism, and direction on how the city should handle the implementation and enforcement of the ordinance.¹¹ Many of the WPG’s recommendations were included in the ordinance language and later addressed through the regulatory process.

One recommendation included increasing the capacity of the city attorney’s office by creating more positions. This ensured the city would be able to enforce the ordinance once it passed. The WPG also recommended that the city keep the compliance efforts under the department of civil rights, which already imposes remedies that complement what’s needed for employers that fail to comply with the sick leave policy after implementation. This was an important provision because the city attorney has the authority and power to revoke business licenses and take non-compliant parties to court. In cases of non-compliance, investigation notices on behalf of the city attorney’s office can deter bad actors.

Advocacy groups push for institutional mechanisms for community outreach

One of the WPG recommendations driven by community groups—in particular, Main Street Alliance—was the creation of a small business outreach office to provide support for small employers navigating city processes and ordinances. This model would allow the city to go into the community and build relationships with small businesses. Advocates felt the creation of this office would add an intentional form of outreach separate from the office charged with enforcing the law. The city council later accepted this recommendation and created a small business engagement office housed in the Minneapolis Department of Community Planning and Economic Development. The office focuses on broad issues, including education and technical assistance to businesses on complying with wage and hour laws, business licensing, and other city procedures.

Enforcement

The ordinance is administered and enforced by the Minneapolis Department of Civil Rights' Labor Standards Enforcement Division (LSED), where the Department of Civil Rights Director holds broad authority to investigate violations. The city council granted the department enforcement authority because it already enforced anti-discrimination laws and has experience handling compliance-focused remedies. Although the enforcement procedures are not identical, the department has expertise in employment law and enforcement.

Rules and Regulations

LSED and the city attorney's office began the rules and regulations writing process by turning to examples of regulatory language from other jurisdictions like San Francisco, Seattle, and Tacoma.¹² Once the division finished the rules and 90-question FAQ document, officials pushed out the documents for public comment, using listening sessions, many of which were co-sponsored with community groups.¹³ LSED found that most listening session attendees were there to learn about the new law and understand how it would work for them rather than give feedback on the rules and regulations. The writing process for FAQ's and rules took the division about six months to complete before the effective date of the law.

Enforcement Processes

LSED may initiate an investigation when it has received a complaint or based on/in response to other credible information, including discovering additional sick and safe time violations during an investigation.¹⁴ Since LSED began exercising its enforcement duties, the division has conducted site visits to businesses across the city. Most often, the businesses visited align with LSED's strategic priorities, including businesses that community-based organizations have targeted with existing outreach and education campaigns, and geographic locations with concentrations of industries that have historically high levels of wage and hour violations. While the focus of these canvassing efforts is to provide information to business owners and their employees about the ordinance, in certain cases, these site visits have triggered company-wide investigations. The civil rights department also has the authority to investigate anonymous reports of a suspected violation.

To file a complaint, an employee, former employee, or third party fills out a **"report for violation" form** in person, online, or via mail or email. Employees can also call the city operator at 311. This office has a sizable staff and is a well-funded operation in Minneapolis, which makes it an easy vehicle for providing information about sick leave. In addition, the operators have been trained by LSED to understand the basic components of the law and can provide this information to workers. When employees call 311, the operator can either help file the claim or answer general questions about the ordinance. The operator can also facilitate referrals to LSED. Since the Minneapolis ordinance allows third parties to file a complaint on behalf of employees, worker centers like CTUL have been vital to employees as they come to understand the enforcement process. For a complaint to be valid, it must have happened after the effective date of the law, and within 365 days of the alleged violation.

The labor standards division manager makes the decision to investigate based on likelihood of merit that a violation occurred, with priority given to complaints from relatively lower-wage industries, company-wide complaints, and complaints reported with the assistance of a community-based organization. By applying these criteria, the team has remained efficient in its investigations and not overwhelmed its capacity.

Once a decision is made to investigate, LSED mails a notice to the employer. The notice contains pertinent facts, allegations and a warning not to retaliate against employees—and may also include a request for information.¹⁵ In only rare cases of retaliation would LSED be required to name an employee. Employers must submit all payroll, time records, and/or other data requested by the department in the requested format. After receiving the notice, employers have 21 calendar days from the date of receipt of the notice to submit the requested documents. **If an employer fails to fully respond in a timely manner to the department’s request, the employer is subject to a rebuttable presumption of a violation.**^{16, 17}

Implementation Period

Penalties and Fines

During the first 12 months following the ordinance’s effective date, the civil rights department mediated disputes and issued warnings and notices to most employers but could not issue any penalties or fines. Thereafter, the director had the authority to order appropriate relief and administrative fines for any determination.¹⁸ The earned sick and safe time ordinance does not have a private right of action.¹⁹

In cases where employers are noncompliant, LSED can also contact the city attorney’s office. While that office is not involved in any day-to-day administrative enforcement or procedures, the threat of a lawsuit or licensing action initiated by the city attorney is enough to encourage employers to cooperate with the sick leave ordinance investigations conducted by LSED. To date, this threat has made all parties respect the process and LSED has not had to use this enforcement tool. The city attorney’s office also collaborates with LSED in the drafting of official agency guidance, developing FAQ documents, and other matters of policy or novel questions of the law.

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Inquiries and Complaints

From November 2017 through June 2019, LSED received over 1,220 inquiries about the sick and safe time ordinance from employers and over 730 from employees via email and phone.²⁰ During the first year, insufficient education and outreach were clearly the biggest issues. These inquiries to LSED have allowed employers to clarify the requirements of the ordinance without any legal risk. Additionally, LSED respects anonymity when employers and employees reach out to the civil rights department for consultation.

Through May 2019, the department received roughly 230 complaints related to a sick and safe time violation. An overwhelming number of these complaints were about lack of notices and posters, accrual, and barriers to access. Most complaints and violations have been largely due to employers not having the appropriate posters. In many cases, businesses and employees did not know that paid sick time was a new benefit available to them. The city settled its first **retaliation case** in January 2018²¹ that resulted in a settlement for \$11,000 in lost wages for an employee. In its first two years of enforcement, LSED has recovered more than \$43,000 in monetary remedies for employees and over \$18,000 in penalties. More importantly, roughly 6,800 workers have benefitted from LSED's enforcement actions as of June 2019.²²

Departmental Outreach and Education

Once the ordinance passed, the first step in educating the public about the new law was to create a wealth of content about paid sick and safe days. In this phase, LSED built a website that packaged major components of the ordinance in different formats. The **robust website's** user-friendly design allows constituents to easily access "plain-language" information about the ordinance and allows legal practitioners to dive deep into the nuts and bolts of the regulatory language.²³ The civil rights department took roughly six months to design and launch the website, which includes graphics, narrated videos, and content available in four different languages. The website also serves as a toolkit by providing information to guide employees through the enforcement process and offering posters in nine different languages for employers.²⁴ In 2017, the website had 32,547 unique users and over 87,338 page views. For 2018, the website had 22,853 unique users and over 56,216 page views.²⁵ LSED also created bus bench ads and social media content—and even made radio appearances to push out information about the new benefit to the community.

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Community Outreach and Education

Under the sick and safe time ordinance, the department is ultimately responsible for educating employers and employees about their rights and obligations under the ordinance. It does so by creating materials and developing/implementing multilingual and culturally specific outreach and community engagement programs.²⁶

To add capacity for outreach and education, LSED funds community engagement activities. It has formed partnerships with community organizations like Centro de Trabajadores Unidos en la Lucha (CTUL) and Main Street Alliance (MSA), both of which are vital in the implementation and enforcement of the ordinance because they are well-positioned to identify community needs and already have strong relationships with the local community.

For example, MSA received a small contract that enabled it to hire an organizer to do store-to-store business outreach. To illustrate the need for more community engagement, MSA surveyed businesses in North Minneapolis, an area with a high concentration of businesses owned by people of color and immigrants, and found that 49 out of 60 surveyed businesses did not have the required poster and were highly unlikely to know about the ordinance. MSA used a second small contract to fund small business owners to lead store-to-store canvassing efforts and educate their peers on the ordinance. This contract also helped MSA hold information sessions in three different languages to broaden its outreach and education efforts. These two contracts with MSA totaled around \$8,500 and were used for shorter term, time-bounded projects.

Simultaneously, the city had a \$35,000 contract with CTUL to bolster outreach for both sick and safe time and the minimum wage ordinance. This contract advanced CTUL's outreach strategy, which was to focus on geographic regions of the city concentrated with traditionally high-violation industries and low-wage jobs (primarily retail, service, and janitorial jobs). CTUL's outreach included distributing flyers, conducting community presentations, and tabling at public events. The civil rights department asked CTUL to keep track of the number of participants at each outreach event and the mechanism they used to contact workers. The outreach efforts of these two laws complemented CTUL's mission; they were able to build their outreach and education efforts into existing campaigns.

Budget and FTEs

The original budget for the labor standards enforcement division included two full-time employees with a small fund for community engagement. After the municipal minimum wage ordinance passed in June 2017, LSED brought on an extra full-time staff member using additional dedicated funding for community engagement.²⁷ While the LSED budget was \$435,725 in 2018, with the support of advocacy groups that pushed for increased enforcement and community outreach funds, the 2019 budget increased to \$678,000 and the office is now staffed by four full-time employees. LSED focuses its staffing and funds solely on enforcement of the sick and safe time and minimum wage ordinances and does not use any funds for the small business outreach office.

This office receives funding from the community planning and economic development department and, while it has staff who can answer general questions about sick and safe time for businesses, the office deals with much broader navigation of city processes, not just sick and safe time.

To continue educating the community about the ordinance, LSED has two contracts with community-based organizations for communications and business outreach purposes. All in all, LSED has given out \$138,000 in contracts. More often, contracts with community-based organizations are for one year with potential for renewal.

Minneapolis Labor Standards Enforcement Division	
<i>By the Numbers</i>	
Minneapolis population	425,403
People employed in Minneapolis	247,103²⁸
Paid sick leave reach	41% of workers who previously lacked access to a single day of leave gained access under the new law
2018 LSED Budget	\$435,725
2019 LSED Budget	\$678,000
Total amount given by LSED to community-based organizations	\$138,000
Inquiries regarding sick and safe time ordinance (11/2017-6/2019)	1,227 inquiries from employers; 738 inquiries from employees via email and phone
Complaints (11/2017-6/2019)	302 complaints to-date; 17 active investigations;
Monetary remedies for employees and penalties for department (11/2017-7/2019)	\$43,765 in monetary remedies for employees; \$18,778 in penalties awarded to dept to deter future violations
Employees affected (11/2017-7/2019)	5,723 employees have benefitted from enforcement actions through settlements; 1,107 employees benefitted by order for sick and safe time
Division website metrics	2017: 32,547 unique users and over 87,338 -page views 2018: 22,853 unique users and over 56,216 -page views

For More LSED data and info, click [here](#).

Lessons Learned

The campaign for sick and safe time in Minneapolis lasted through implementation. **Agencies must develop and continue relationships with the stakeholders that campaigned, lobbied, and created the pressure to pass the law in the first place.** This political power is important to leverage even after the law passes and is important when the agency needs political support to advance something. These groups can provide support to ensure proper implementation and enforcement. In Minneapolis, advocates played a key role in advocating to city leadership for more funds for enforcement staff, community outreach, and the creation of a small business outreach office.

Outreach, education, and building awareness is an ongoing process. Earned sick and safe time is still a new law, and the department is finding that employers and employees often don't tune in until a situation arises in the workplace.

Although Minneapolis created a small business outreach office, it is housed in another department. **Campaigns should think about how to get buy-in and active participation from other city departments.** For example, the small business outreach office in Minneapolis falls under the purview of the department of community planning and economic development, which has a massive budget and serves many businesses. Yet, the business outreach office provides more assistance with business licensing procedures than the implementation of sick and safe time.

The challenge that Minneapolis experienced during the first year of implementation and enforcement highlights the **need for agencies to conduct a strategic communications plan to roll out information about the new ordinance** to the community and amplify their enforcement work to the media to deter bad actors.

Local agencies should create communications plans and protocols to directly communicate with their constituents. As a light touch, the city should have the capacity to mail a letter with information about the ordinance or any regulatory updates to all businesses (and constituents) in Minneapolis.

In Minneapolis, **union engagement helped limit carve outs** that would have weakened the ordinance and pressured the city council to create the ordinance with a holistic approach.

Minneapolis proved that a workgroup representing various community groups with different interests can come together to create policy recommendations that will benefit everyone. Because of the effectiveness of the sick and safe time workgroup, the group transitioned into a Workplace Advisory Council for the Minneapolis City Council. This standing committee now gathers community input on other issues.

When labor standards offices and community groups see each other as partners in helping make workers whole, they can build trust with community members and improve their outreach and education efforts.

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Endnotes

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https://library.municode.com/mn/minneapolis/ordinances/code_of_ordinances?nodeId=773503.

² United States Census Bureau, Quick Facts, Minneapolis city, Minnesota,

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³ Ellen Bravo, “Minneapolis Will Become First Midwestern City with Paid Sick Days”, Family Values at Work, May, 27, 2016, <http://familyvaluesatwork.org/blog/minneapolis-will-become-first-midwestern-city-paid-sick-days>.

⁴ Ordinance No. 2016-040, Minneapolis, Minnesota-Code of Ordinances, Title 2, Chapter 40, Workplace Regulations,

https://library.municode.com/mn/minneapolis/codes/code_of_ordinances?nodeId=COOR_TIT2AD_CH40WOR E.

⁵ Employees begin to accrue sick and safe time on the first day of employment or July 1, 2017, whichever is later.

⁶ Employees who were already employed by the same employer for 90 calendar days before the effective date could begin using their sick and safe time on July 1, 2017.

⁷ Findings and Recommendations, Workplace Regulations Partnership Group, Minneapolis City of Lakes, March 2016,

<https://lms.minneapolismn.gov/Download/PriorFileDocument/-52500/WCMSP-175374.PDF>

⁸ City of Minneapolis Public Health Advisory Committee (PHAC), Minneapolis Health Department,

<http://www.minneapolismn.gov/health/phac/index.htm>.

⁹ Ibid., 5.

¹⁰ Access to paid sick leave among working Minneapolis residents, Minneapolis Health Department, August 2015,

<http://www.minneapolismn.gov/www/groups/public/@health/documents/webcontent/wcms1p-147676.pdf>.

¹¹ Ibid., 5.

¹² CLASP, Enforcing Sick Days, <https://enforcingsickdays.org>.

¹³ Rules implementing the Minneapolis sick and safe time ordinance, Minneapolis Dept. of Civil Rights, July 3, 2019,

http://sicktimeinfo.minneapolismn.gov/uploads/9/6/3/1/96313024/sst_rules_web_final_6_28_19_.pdf, and

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http://sicktimeinfo.minneapolismn.gov/uploads/9/6/3/1/96313024/faqs_web_final_v.22_6_27_19.pdf.

¹⁴ Ibid., 11.

¹⁵ Ibid.

¹⁶ Rule 4.8. An Employer’s failure to timely and fully respond to a request issued by the Department or to participate in a fact-finding or settlement conference creates a rebuttable presumption of a violation.

¹⁷ A rebuttable presumption is an assumption of fact accepted by the court until disproved.

¹⁸ Relief and administrative fines include, but are not limited to reinstatement and backpay; crediting of any accrued sick and safe time; payment of any accrued time unlawfully withheld; administrative penalties payable to the employee for each violation; administrative fine payable to the city for each day

¹⁹ A private right of action gives a person the right to sue in a civil litigation.

²⁰ Reports and Data, Minneapolis Department of Civil Rights, Labor Standards Enforcement, July 12, 2019,

<http://www.minneapolismn.gov/civilrights/LaborStandardsEnforcement/WCMSP-187215>

²¹ Adam Belz, “Minneapolis sick leave violation results in \$11,000 settlement,” *Star Tribune*, January 12, 2018,

<http://www.startribune.com/minneapolis-sick-leave-violation-results-in-11-000-settlement/469011253/>.

²² Ibid., 14.

²³ Minneapolis Sick and Safe Time Website, <http://sicktimeinfo.minneapolismn.gov/>.

²⁴ Ibid.

²⁵ Labor Standards Enforcement Annual Report, City of Minneapolis, March 19, 2018,

<https://lims.minneapolismn.gov/Download/RCA/4035/Labor%20Standards%20Enforcement.pdf>.

²⁶ 40.110. (b) The director shall develop and implement a multilingual and culturally specific outreach and community engagement program to educate employees and employers about their rights and obligations under this chapter. This outreach program shall include media, trainings and materials accessible to the diversity of employees and employers in the city. (Org. No. 2016-040, § 1, 5-27-16)

²⁷ Minneapolis Minimum Wage Website, <http://minimumwage.minneapolismn.gov/>.

²⁸ Data USA, Minneapolis, MN, <https://datausa.io/profile/geo/minneapolis-mn/#economy>.