



City of Los Angeles Minimum Wage and Sick Time Benefits: Frequently Asked Questions (FAQ)

This document contains answers to questions that are frequently asked about the new City of Los Angeles Minimum Wage Ordinance (MWO) and Office of Wage Standards Ordinance, or Los Angeles Municipal Code (LAMC) Sections 187 and 188, respectively.

General

1. What is included in the MWO?

The MWO includes minimum wage and paid sick leave requirements in the City of Los Angeles.

2. Who is considered an “Employer” under the MWO?

An Employer is any person, as defined in the California Labor Code Section 18, including a corporate officer or executive, who directly or indirectly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of any Employee, pursuant to LAMC § 187.01(D).

Refer to this definition of Employer throughout this document.

3. Who is considered an “Employee” under the MWO?

An Employee is any individual who performs at least two hours of work in a particular week within the geographic boundaries of the City of Los Angeles for an Employer and qualifies as an Employee entitled to payment of a minimum wage from any Employer under the California minimum wage law and the California Industrial Welfare Commission wage orders, pursuant to LAMC § 187.01(C).

Refer to this definition of Employee throughout this document.

4. Does the MWO apply to full-time Employees, part-time Employees, temporary Employees, and/or undocumented workers?

Yes. Any Employee who performs at least two hours of work in a particular week within the City of Los Angeles is entitled to be paid the Los Angeles minimum wage and be provided sick time benefits for time worked in the City of Los Angeles.

5. Does the MWO apply to an Employer who isn't located in Los Angeles but has an Employee performing work in Los Angeles?

Regardless of where an Employer is located, an Employer must pay the Los Angeles minimum wage rate and provide sick time benefits to any Employee who performs at least two hours of work in a particular week within the City of Los Angeles for time worked in the City of Los Angeles.

6. Does the MWO apply to an Employee who works in Los Angeles but is not a City of Los Angeles resident?

Yes. Any Employee who performs at least two hours of work in a particular week within the City of Los Angeles is entitled to be paid the Los Angeles minimum wage and be provided sick time benefits for time worked in the City of Los Angeles, regardless of the Employee's city of residence.

7. Does the MWO apply to an Employee 14-17 years of age?

Per LAMC § 187.02(E), Employees who are 14-17 years of age may be paid not less than 85% of the minimum wage, rounded to the nearest nickel, during their first 160 hours of employment. After more than 160 hours of employment, they must be paid the minimum wage.

8. Does the MWO apply to those workers who are exempt from the State minimum wage?

No. For the purposes of the MWO, an Employee must be any individual entitled to a minimum wage from any Employer under the California minimum wage law, as provided under California Labor Code § 1197 and wage orders published by the California Industrial Welfare Commission, per LAMC § 187.01(C).

9. Does the MWO apply to exempt “white collar” employees?

No. Those exempt employees under the wage orders published by the California Industrial Welfare Commission who would not qualify for the California minimum wage would not be covered under the Los Angeles Minimum Wage Ordinance.

10. Does the MWO apply to public Employees?

The Los Angeles Minimum Wage Ordinance does not apply to employees of other government agencies, including Federal agencies, State agencies, cities, counties, school districts, and any other public entities.

11. Does the MWO apply to Employees covered by an existing collective bargaining agreement?

Yes.

12. What are the boundaries or zip codes that comprise the City of Los Angeles?

To determine if a workplace or job site lies within the City limits, you may use Neighborhood Info (<http://neighborhoodinfo.lacity.org/>).

Follow the exact instructions of this website. If an address is located within the boundaries of the City of Los Angeles and is correctly entered, then the search will locate the address on the map with detailed address information.

13. What City department is implementing the Ordinances?

The Office of Wage Standards of the Bureau of Contract Administration of the Department of Public Works is the Designated Administrative Agency for the Ordinances.

14. How will the City enforce the MWO?

The Los Angeles City Council enacted the Office of Wage Standards Ordinance, creating a division to enforce the Los Angeles Minimum Wage Ordinance. Responsibilities of the Office of Wage Standards will include investigating potential violations; issuing determinations of compliance or non-compliance; and obtaining restitution, penalties, and/or administrative fines where violations have occurred.

Minimum Wage Rate

15. What is the City of Los Angeles Minimum Wage Rate Schedule?

The City of Los Angeles Minimum Wage Rate Schedule from 2016 - 2021 can be found below or on our website, per LAMC § 187.02.

Effective Date	Employers with 26 or more Employees	Employers with 25 or fewer Employees or Non-Profit Corporations with 26 or more Employees with approval
July 1, 2016	\$10.50	Deferred based on eligibility & approval
July 1, 2017	\$12.00	\$10.50
July 1, 2018	\$13.25	\$12.00
July 1, 2019	\$14.25	\$13.25
July 1, 2020	\$15.00	\$14.25
July 1, 2021	\$15.00	\$15.00

16. When does the minimum wage rate take effect?

For Employers with 26 or more Employees, the minimum wage rate takes effect on July 1, 2016. For Employers with 25 or fewer Employees and approved Non-Profit Corporations with 26 or more Employees who qualify for the minimum wage rate deferral, a deferred minimum wage rate schedule is available. See Question #15.

17. Who is eligible for deferral?

An Employer may qualify for deferral if it:

- (1) Is considered a small business as determined by MW-2 Small Business Deferral Eligibility Worksheet for Employers with 25 or Fewer Employees; or
- (2) Meets certain requirements as a Non-Profit Corporation with 26 or more Employees (See LAMC § 187.03 or Question #45).

The MWO deferral does not exempt any Employer from complying with any and all federal, state, or local laws and regulations, including any applicable higher federal or state minimum wage requirement. It is the Employer's responsibility to ensure that the Employer is in compliance with any such laws and regulations.

18. What is considered as a “wage”?

For the purposes of the MWO pursuant to LAMC § 187.01(G), “wage” means all amounts for labor performed by employees of every description, whether the amount is fixed or ascertained by the standard of time, task, piece, commission basis, or other method of calculation, as defined in California Labor Code § 200(a).

If an Employer uses other methods of compensation to offset the amount the MWO requires, the Employer must keep accurate records for each pay period verifying the amount paid to each Employee and make them available for audit.

19. May gratuity or tips be counted toward the minimum wage?

No.

20. May medical benefits be counted toward the minimum wage?

No.

Paid Sick Leave

21. When does paid sick leave pursuant to LAMC § 187.04 apply?

Paid sick leave applies on July 1, 2016 for Employers with 26 or more Employees, including Non-Profit Corporations with or without the minimum wage rate deferral.

Paid sick leave applies on July 1, 2017 for Employers with 25 or fewer Employees.

22. Who is entitled to paid sick leave benefits under the MWO?

Every Employee who works for an Employer with 26 or more Employees, on or after July 1, 2016, and works in the City for the same Employer for 30 days or more within a year from the commencement of employment is entitled to paid sick leave.

Every Employee who works for an Employer with 25 or fewer Employees, on or after July 1, 2017, and works in the City for the same Employer for 30 days or more within a year from the commencement of employment is entitled to paid sick leave.

23. Is a part-time Employee who works sporadically in the City of Los Angeles entitled to paid sick leave benefits?

Each day in which an Employee performs work is considered one (1) day. So, if that Employee meets the definition of Employee (LAMC § 187.01(C); Question #3) and qualifies by working at least 30 days within a year in the City of Los Angeles for the same Employer, then that Employee is entitled to paid sick leave benefits.

24. As an Employer, how do I provide paid sick leave for my Employees?

An Employer may provide paid sick leave either:

- (1) By providing the entire 48 hours to an Employee at the beginning of each year of employment, calendar year, or 12-month period (front-loading method); or
- (2) By providing the Employee one hour of sick leave per every 30 hours worked (accrual method).

An Employer may select either the front-loading method or the accrual method and may switch between the two methods only on an annual basis. Please see Regulation #4 in the MWO Rules & Regulations for more information.

25. If an Employer chooses the front-loading method and plans to do so when the MWO takes effect, will the hours be based on a proration?

No. For an Employer with 26 or more Employees using the front-loading method on July 1, 2016, and for only the calendar year 2016, the Employer may provide 24 hours for the period covering July 1, 2016 to December 31, 2016. On January 1, 2017, the Employer is required to provide the full 48 hours.

For an Employer with 25 or fewer Employees using the front-loading method on July 1, 2017, and for only the calendar year 2017, the Employer may provide 24 hours for the period covering July 1, 2017 to December 31, 2017. On January 1, 2018, the Employer is required to provide the full 48 hours.

26. May an Employer apply different paid sick leave methods to different Employee classifications?

An Employer may maintain different methods of paid sick leave for different classifications of Employees. For example, an Employer may use the Accrual

Method for part-time Employees and the Front-Loading Method for full-time Employees, or use the same method for both. An Employer may switch between the methods only on an annual basis.

27. When does accrual of sick time begin?

For Employers with 26 or more Employees (including Non-Profit Corporations with or without the minimum wage rate deferral), paid sick leave shall accrue on the first day of employment or July 1, 2016, whichever is later.

For Employers with 25 or fewer Employees, paid sick leave shall accrue on the first day of employment or July 1, 2017, whichever is later.

28. When can an Employee begin using paid sick leave?

An Employee of an Employer with 26 or more Employees (including Non-Profit Corporations with or without the minimum wage rate deferral) may use paid sick leave beginning on the 90th day of employment or July 1, 2016, whichever is later.

An Employee of an Employer with 25 or fewer Employees may use paid sick leave beginning on the 90th day of employment or July 1, 2017, whichever is later.

29. How many paid sick leave hours may an Employee use per year?

An Employee is entitled to take up to 48 hours of sick leave annually, depending on the method used by the Employer (i.e., year of employment, calendar year, or 12-month period). An Employer may set a higher cap or no cap at all.

30. Does accrued unused paid sick leave carry over to the following year?

Unused paid sick time accrued by an Employee, whether by front-loading method or by accrual method, shall carry over to the following year of employment and may be capped at a minimum of 72 hours. An Employer may set a higher cap or no cap at all.

31. Can accrual of paid sick leave be capped?

Pursuant to LAMC § 187.04(E), accrued and unused paid sick leave may be capped at 72 hours, but an Employer may set a higher cap or no cap at all.

32. What can an Employee use paid sick leave for?

An Employer shall provide paid sick leave upon the oral or written request of an Employee for themselves or a family member, as defined by California Labor Code §§ 246.5(a) and 245.5(c), or for any individual related by blood or affinity whose close association with the Employee is the equivalent of a family relationship. Paid sick leave may be used for the purposes of preventive care or diagnosis, care, or treatment of an existing health condition, or for specified purposes of a victim of domestic violence, sexual assault, or stalking.

33. Who is considered a family member?

A family member is defined as a child, parent, spouse, registered domestic partner, grandparent, grandchild, or sibling. For more information, refer to California Labor Code § 245.5(c). An Employee is also allowed to use paid sick leave for any individual related by blood or affinity whose close association with the Employee is the equivalent of a family relationship. See Question #32.

34. Does an Employee have to notify his/her Employer before taking sick leave?

An Employee must notify the Employer in advance if the sick leave is planned, as may be the case with scheduled doctors' visits. If the need is unforeseeable, an Employee need only give notice as soon as practical, as may occur in the case of unanticipated illness or a medical emergency.

35. Does an Employee need to provide documentation to use paid sick leave?

For the purpose of the MWO only, an Employer may require documentation to substantiate the need for leave only after an Employee has used more than 3 consecutive days of sick leave. An Employer may not require an Employee to provide a description or explanation of the illness or condition necessitating the Employee's leave. Reasonable documentation is also dependent on the situation; the Employer's policy should never be so difficult that it deters an Employee from taking a legitimate paid sick day.

36. Does an Employer need to pay out paid sick leave to an Employee at the end of a year?

An Employer is not required to provide compensation for accrued and unused sick time. However, an Employer is required to provide compensation for sick time that is accrued and used.

37. May an Employer pay out paid sick leave to an Employee at the end of a year?

An Employer may, at its discretion, pay out accrued and unused paid sick leave hours in excess of the 72-hour cap.

38. Does an Employer need to pay out paid sick leave to an Employee upon termination, resignation, retirement, or other separation from employment?

An Employer is not required to provide compensation to an Employee for accrued or unused sick time upon termination, resignation, retirement, or other separation from employment. However, if an Employer separates from an Employer and is rehired by the Employer within one (1) year from the date of separation, previously accrued and unused sick time shall be reinstated.

39. If an Employer already provides 24 hours of paid sick leave and 24 hours of vacation to its Employees, does the Employer need provide additional paid sick leave?

If an Employer has a paid leave or paid time off policy or provides payment for compensated time off, that is equal to or no less than 48 hours, no additional time is required, pursuant to LAMC § 187.04(F). The notice requirement for use of the time should not be unreasonable.

40. What is considered paid leave, paid time off, or compensated time off for the purposes of calculating 48 hours pursuant to LAMC § 187.04(F)?

Any paid time off, including but not limited to, vacation, sick, personal or paid time off known as PTO, floating holiday, holiday, or personal days may be considered. The notice requirement for use of the time off should not be unreasonable.

41. What if an Employer does not provide 48 hours of compensated time off to its Employees but believes it provides a more generous compensated time off policy than is required under the MWO?

An Employer may choose to provide Employees with a more generous compensated time off policy than is required under the MWO. To request a determination from the OWS of a compensated time off policy that may be more generous than is required under the MWO per LAMC Section 187.07, a complete MW-7 MWO Paid Sick Leave Determination Request Form must be submitted to the OWS. After considering the totality of circumstances provided, the OWS will issue a determination and may allow an Employer's established compensated time off policy to remain in place. The MW-7 request form is available on our website.

If an Employer is in compliance with LAMC Section 187.04(F), that Employer does NOT need to complete the MW-7 request form. See Question #39.

Non-Profit Corporations with 26 or more Employees

42. What is a “Non-Profit Corporation”?

Pursuant to LAMC § 187.01(E), a Non-Profit Corporation is a non-profit corporation, duly organized, validly existing, and in good standing under the laws of the jurisdiction of its incorporation and, if a foreign corporation, in good standing under the laws of the State of California, which corporation has established and maintains valid non-profit status under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and all rules and regulations promulgated thereunder.

43. Are non-profits covered by the MWO?

Yes. A non-profit Employer must abide by the Ordinance. Certain Non-Profit Corporations that employ 26 or more Employees may qualify for the deferred minimum wage rate schedule with approval, pursuant to LAMC § 187.02(C).

44. When will a non-profit Employer need to provide sick time benefits?

A non-profit Employer with 26 or more Employees must provide sick time benefits on July 1, 2016 whether or not they are granted a minimum wage rate deferral by OWS.

45. What are the requirements for a Non-Profit Corporation with 26 or more Employees to qualify for the deferral rate schedule?

To qualify for the deferred minimum wage rate schedule, a Non-Profit Employer with 26 or more Employees must establish by compelling evidence that:

- (1) The chief executive officer or highest paid employee earns a salary which, when calculated on an hourly basis, is less than 5 times the lowest wage paid by the corporation; or
- (2) It is a Transitional Employer as defined in Section 10.31.1(h) of the Los Angeles Administrative Code; or
- (3) It serves as a child care provider; or
- (4) It is funded primarily by city, county, state, or federal grants or reimbursements.

46. How does a Non-Profit Corporation with 26 or more Employees apply for deferral?

A Non-Profit Corporation with 26 or more Employees must apply for deferral by submitting a completed MW-1 Non-Profit Deferral Application with supporting documentation to OWS. MW-1 can be found on our website. Following submission of the request for deferral based on the eligibility criteria, OWS will provide a written response either approving the deferral or denying the deferral.

If a Non-Profit Corporation loses its deferral status at any time after July 1, 2016, it shall pay wages due in the current year under LAMC § 187.02(B). The MWO deferral does not exempt any Employer from complying with any and all federal, state, or local laws and regulations, including any applicable higher federal or state minimum wage requirement. It is the Employer's responsibility to ensure that the Employer is in compliance with any such laws and regulations.

Small Businesses with 25 or fewer Employees

47. Are small businesses covered by the MWO?

Yes. For the purposes of the MWO, a small business is an Employer with 25 or fewer Employees and must abide by the MWO. An Employer with 25 or fewer Employees may qualify for the minimum wage rate deferral schedule specified in

LAMC § 187.02(C) and may provide sick time benefits on July 1, 2017. Please see MW-2 Small Business Deferral Eligibility Worksheet on our website.

48. What are the requirements for a small business to qualify for the MWO deferral?

To qualify for the MWO deferral, a small business must show that it is an Employer with 25 or fewer Employees. Please see Question #50 and MW-2 Small Business Deferral Eligibility Worksheet, which is available on our website.

49. Does a small business need to apply for the MWO deferral?

A small business should complete MW-2 Small Business Deferral Eligibility Worksheet, which is available on our website and has been provided to assist Employers in determining eligibility. An Employer should not submit MW-2 to OWS, but instead retain it with supporting documents in the Employer's records.

The MWO deferral does not exempt any Employer from complying with any and all federal, state, or local laws and regulations, including any applicable higher federal or state minimum wage requirement. It is the Employer's responsibility to ensure that the Employer is in compliance with any such laws and regulations.

50. How is the size of an Employer's business counted?

The size of an existing business in operation before January 1, 2016 is determined by the average number of Employees employed during 2015, rounded up to the next whole number of Employee. An Employee must meet the definition outlined in Question #3 and includes but is not limited to full-time, part-time, temporary, or seasonal Employees.

Refer to MW-2 Small Business Deferral Eligibility Worksheet, which is available on our website. The average number of Employees calculated based on MW-2 will help assess whether or not an Employer is eligible to pay based on the small business deferral schedule. Please see Regulation #7 in the MWO Rules & Regulations on our website for further clarification and examples.

51. Does the size of an Employer's business include employees who never work in Los Angeles?

No. It includes Employees as defined in LAMC § 187.01(C). See Question #3.

52. How would a new business in operation after January 1, 2016 calculate the number of Employees?

The size of an Employer's new business in operation after January 1, 2016 will initially be determined by the number of Employees employed during its first pay period. Any changes in the number of Employees shall not impact the Employer's status as an Employer with 25 or fewer Employees for purposes of the MWO deferral schedule; therefore, the entity will follow for the remaining term of deferral schedule until the rate reaches \$15.00 in July 2021.

53. What if an Employer qualifies for the small business deferral and the Employer hires more Employees?

If an existing Employer's average number of Employees from the previous calendar year was 25 or fewer, it shall pay based on the deferral schedule regardless of the changes in number of Employees for the duration of the minimum wage rate schedule.

Enforcement

54. What are the notice and posting requirements of the MWO?

- (1) Every Employer must post in a clearly visible place at any workplace or job site where any Employee works, the notice published each year by OWS informing Employees of the current minimum wage rate and of their rights under the Ordinance.
- (2) Notices must be provided in English and any language spoken by at least five percent of the Employees at the workplace or job site.
- (3) Every Employer must provide each Employee at the time of hire or July 1, 2016, whichever is later, the Employer's name, address, and telephone number in writing.

The required Los Angeles MWO Notice can be found on the OWS website (<http://wagesla.lacity.org/>) in multiple languages.

55. Does OWS have the authority to impose administrative fines for violations of the Ordinances?

OWS has the authority to issue administrative fines, under LAMC § 188.08, payable to the City of Los Angeles, by means of a Notice of Correction.

VIOLATION AND FINE AMOUNT, pursuant to LAMC § 188.08(B)

Failure to post notice of the Los Angeles Minimum Wage rate and Sick Time Benefits – LAMC § 188.03(A)	Up to \$500
Failure to allow access to payroll records – LAMC § 188.03(B)	Up to \$500
Failure to maintain payroll records or to retain payroll records for four years – LAMC § 188.03(B)	Up to \$500
Failure to allow access for inspection of books and records or to interview employees – LAMC § 188.03(C)	Up to \$500
Retaliation for exercising rights under this article – LAMC § 188.04 – The Penalty for retaliation is up to \$1000 per employee	Up to \$1000
Failure to provide employer's name, address, and telephone number in writing – LAMC §§ 188.03(A) or 188.05(B)	Up to \$500
Failure to cooperate with the Division's investigation – LAMC § 188.05(B)	Up to \$500
Failure to post Notice of Correction to employees – LAMC § 188.06(D)	Up to \$500

Each and every day that a violation exists is a separate and distinct violation. Any administrative fine assessed within a 3-year period in any Notice of Correction and determined to be a subsequent violation of the same provision by the same Employer may be increased cumulatively by 50% from the maximum administrative fine allowed.

56. Does the MWO address meal breaks, rest breaks, and/or overtime pay?

No. Please contact the Division of Labor Standards Enforcement of the State of California for questions regarding meal breaks, rest breaks, and/or overtime pay at <http://www.dir.ca.gov/dlse/>.

57. What are an Employee's rights under the OWS Ordinance?

An Employee has the following rights:

- (1) Right to be provided the Employer's name, address, and telephone number in writing at the time of hire or July 1, 2016, whichever is later.
- (2) Right to file a complaint or inform any person about any party's alleged noncompliance with the Ordinance.
- (3) Right to inform any person of his or her potential rights under the Ordinance and to assist him or her in asserting such rights.
- (4) Right against retaliation even when the Employee mistakenly, but in good faith, alleges noncompliance with the Ordinance.

Any adverse action against an Employee within 90 days of the Employee's exercise of protected rights shall raise a rebuttable presumption of having done so in retaliation for the exercise of such rights.

58. What can I do if my Employer doesn't pay me at least the minimum wage or provide me with the correct sick time benefits?

For Los Angeles minimum wage and paid sick leave violations, you may complete and submit a Complaint Form to OWS, which is available on the MyLA 311 app or on our website: <http://wagesla.lacity.org/submit-complaint/>. Under LAMC § 188.07(B), you may also bring a civil action in a court of competent jurisdiction against the Employer violating this article. See Question #63.

59. Who can report a suspected violation?

An Employee or any other person may report a suspected violation of the MWO.

60. Will the City of Los Angeles allow a complainant to remain anonymous?

To encourage reporting of a violation, the City shall keep confidential, as permitted by applicable laws and except where compelled by law, the name and other identifying information of the Employee or person reporting the violation during the investigation by OWS unless authorized by the Employee or person reporting the violation.

61. What if my boss fires or punishes me for reporting a problem?

Retaliation is prohibited under LAMC §§ 187.06 and 188.04. You may report a violation to OWS. See Question #55.

62. What can I do if my Employer retaliates against me because I question them about not being paid the Los Angeles minimum wage and paid sick leave?

Retaliation is prohibited under the Ordinance. You may report a violation to OWS. See Question #55.

63. What private right of action is available to an Employee?

Any Employee or any other person or entity acting on behalf of the public as provided for under applicable state law, may bring a civil action in a court against an Employer for violations of the Ordinances.

This document is intended as general information only and does not carry the force of legal opinion. The Office of Wage Standards (OWS) is providing this information as a public service. This information and related materials are presented to give the public access to information on the Los Angeles minimum wage and paid sick leave law. Please be aware that while OWS tries to keep the information timely and accurately, there may be a delay between official publications of the materials and the modification of these pages. Therefore, OWS does not make, express, or imply guarantees. OWS will make every effort to correct errors brought to our attention.

The City of Los Angeles can only advise Employers how to comply with the Los Angeles Minimum Wage Ordinance. It cannot advise an Employer how to comply with State law. Please contact the California State Labor Commissioner for information on compliance with State law.

City of Los Angeles
Department of Public Works
Bureau of Contract Administration
Office of Wage Standards
Email: wagesla@lacity.org
Phone: 1-844-WAGESLA (924-3752)
Website: <http://wagesla.lacity.org>