

BOSTON COLLEGE

MASSACHUSETTS EARNED SICK TIME LAW

QUESTIONS AND ANSWERS

1. What does the law provide?

Effective July 1, 2015, the law provides that essentially all employees in Massachusetts earn a certain amount of sick time. This includes both benefits-eligible and non-benefits-eligible employees at Boston College, in some cases including students.

2. How and when is sick time under this law earned?

Employees earn one hour of sick time for every 30 hours worked. Thus, under this law, employees can earn and use up to 40 hours of sick time per benefit year if they work enough hours. Employees began earning sick time under this law as of July 1, 2015, or on their date of hire, if later.

3. What is the “benefit year” for purposes of tracking sick time under this law?

For benefits-eligible employees, their “benefit year” is the 12-month period beginning with the date they were first benefits-eligible (normally their hire date), which is also referred to as their “anniversary year.”

For non-benefits-eligible employees, their “benefit year” is the 12-month period beginning with their hire date.

4. How does this law affect accruals for benefits-eligible employees?

In terms of sick time accrual the law has virtually no impact on Boston College’s benefits-eligible employees because our sick pay policies provide a greater benefit than the law requires. Employees paid on the weekly payroll (hourly or salaried) and part-time employees on the monthly payroll already earn one sick day per month.

As a simple example, a 35-hour per week employee earns seven hours of sick leave per month under B.C.’s policy. Working 140 hours per month (4 x 35 hours) would generate fewer than 5 hours under the new law. A similar differential would apply proportionately to part-time employees.

Full-time staff and faculty on the monthly payroll are covered by B.C.’s “salary continuation” policy, which also provides a greater sick leave benefit than the law requires.

5. When can the sick time be used by benefits-eligible employees?

Employees on the weekly payroll (hourly or salaried) have always accrued sick time on a monthly basis (one day per month) and have been able to use it as it is accrued. As stated above, Boston College’s accrual policy exceeds the new law’s requirement. Boston College is

adopting the following policies for availability and use of sick time by benefits-eligible employees:

- (a) Full-time salaried employees on the weekly payroll (primarily Office & Clerical staff) and part-time professional/administrative employees on the monthly payroll will continue to accrue sick time at the rate of one day per month of service. However, recognizing that sick leave records may not be at the same level of detail in all departments, these employees will automatically be granted the ability to use up to 40 hours of sick time at the beginning of each anniversary year for purposes prescribed by the MA Sick Time Law, regardless of whether those 40 hours have yet been accrued. Hours used will be charged to accrued sick leave, if available. If not available, up to 40 hours may be “advanced” and the advanced hours will be offset as the employee accrues sick leave. This policy will apply to both current and newly-hired benefits-eligible employees in these classifications.
- (b) Full-time and part-time hourly-paid employees on the weekly payroll will also continue to accrue sick time at the rate of one day per month of service and will be able to use the time as it is accrued. Most of these employees are currently on the college’s Leave Accrual System, so tracking of their sick time accruals and usage is already happening, and no change to our current practice is required.
- (c) Full-time employees on the monthly payroll, including both staff and faculty, will continue to be covered by the current salary continuation policy (up to six months for long-term illnesses or disabilities). For purposes prescribed by the MA Sick Time Law, these employees will also be able to use up to 40 hours of sick time at the start of each anniversary year.

6. When can the sick time be used by non-benefits-eligible employees?

Employees may begin using the earned sick time 90 days after their first day of work. Non-benefits-eligible employees may use sick time only after it has been accrued.

7. Can there be negative accrual balances in an employee’s sick leave record?

- (a) In accordance with the policy in question 5, full-time salaried employees on the weekly payroll and part-time employees on the monthly payroll, including newly-hired employees, technically could have negative balances if they utilize some of the 40 hours of sick time before it’s accrued at the beginning of an anniversary year.
- (b) Full-time and part-time hourly-paid employees on the weekly payroll may use sick time as it is accrued, but negative balances may be allowed with a manager’s approval.
- (c) Any negative balances from “advanced” sick leave will be “repaid” as the employee accrues sick leave in that anniversary year.
- (d) For non-benefits-eligible employees, negative balances are not permitted (see question 6), and managers should not approve sick time unless it has been accrued.

8. How can sick time be used under the new law?

Under the new law, benefits-eligible and non-benefits eligible employees can use up to 40 hours of accrued or allotted sick time annually to:

- Care for the employee or the employee's child, spouse, parent, or parent of a spouse, who is suffering from a physical or mental illness, injury, or medical condition that requires home care, professional medical diagnosis or care, or preventative medical care;
- Attend a routine medical appointment of the employee or the employee's child, spouse, parent, or parent of a spouse;
- Travel to and from an appointment, a pharmacy, or other location related to the purpose for which the sick time was taken; or
- Address the psychological, physical, or legal effects of domestic violence on the employee or the employee's dependent child.

Benefits-eligible employees may use more than the 40 hours required under the law to care for their own illness or injury, in accordance with Boston College's current sick leave and salary continuation policies. They are limited to using no more than 40 hours annually for family sick time. (But see the Family Sick Leave section in the Employee Handbook for exception wording.) Also, using sick leave for routine medical appointments (essentially 'well visits,' such as, routine physicals or dental exams) for the employee or the employee's family members is limited to 40 hours per year.

9. Can employees use accrued sick time in less than full work day increments?

Yes, employees may use sick time in increments as small as one hour. After one hour the sick time may be used in increments as small as one-quarter hour.

10. Will earned sick time carry over from one year to the next?

- (a) Benefits-eligible employees who accrue one day per month may carry over their sick time from year to year without a limit.
- (b) Non-benefits-eligible employees will be able to carry over up to 40 hours of unused earned sick time from one year to the next, but may not use more than 40 hours in a benefit year.

11. Will earned sick time be paid out upon an employee's termination from Boston College?

No, unused sick time will not be paid out. (There is an exception at retirement for qualified full-time weekly-paid employees – see Employee Handbook.)

12. Is notification required when sick time is to be used?

In accordance with standard Boston College practice, employees should make a good-faith effort to notify their manager in advance if the need for using sick time is foreseeable. If employees anticipate a multi-day absence from work, they should provide notification of the expected duration of the absence, or, if unknown, provide notification on a daily basis, unless the circumstances make such notice unreasonable. If the use of sick time is not foreseeable, sick time must be reported as soon as practicable.

13. Will documentation be required to support the use of sick time?

In accordance with the Sick Time Law provisions, employees may be required to submit documentation from a health care provider to their department and/or to the Benefits Office, certifying that the use of sick time was for an authorized purpose when the absence:

- Exceeds twenty-four (24) consecutively scheduled work hours or three (3) consecutively scheduled work days;
- Occurs within two (2) weeks prior to an employee's final scheduled day of work before termination of employment (except for temporary pool employees);
- Occurs after four (4) unforeseeable and undocumented absences within a three (3) month period.

Note: For absences exceeding the 40 hours covered by the Sick Time Law, existing Boston College department practices for requiring documentation to support the use of sick time will continue to apply. At its discretion, the University may require a physician's certification that an employee is medically unable to work and may also require a second opinion.

14. How do breaks in service affect sick leave accruals?

- Following a break in service of up to 12 months, employees may use any unused sick time accrued before the break in service.
- With a break in service of longer than 12 months, any unused sick time accrued before the break in service is forfeited.
- After a break in service of up to twelve months, returning employees do not need to wait 90 days to start using their accrued sick time.

15. How will sick time be tracked for non-benefit-eligible employees?

For the weekly payroll, Boston College is pursuing options for implementing, wherever possible, sick leave accrual tracking through the payroll system, as is currently done for some benefit-eligible employee categories. In the meantime, departments will need to manually track sick time earned and taken (up to 40 hours per year) for non-benefits-eligible employees on the weekly payroll – that is, employees who work fewer than 20 hours per week or who work for short periods during the year (e.g., Temporary Pool employees).

Non-benefits-eligible employees on the monthly payroll, including part-time faculty, who don't submit hours through the payroll system, will automatically be allotted 40 hours of sick time at the start of each benefit year to be used in accordance with MA Sick Time Law provisions.

16. Are students eligible for earned sick time?

Most undergraduate and graduate students will not be eligible to accrue sick time. The law does not apply to students who (a) participate in a federal Work-Study Program or substantially similar financial aid or scholarship program; (b) provide support services to residents of a residence hall in exchange for a waiver or reduction of room, board, tuition, or other education-related expenses; or (c) are exempt from FICA (Federal Insurance Contributions Act) tax. The FICA tax and Work-Study exemptions effectively eliminate practically all Boston College students from sick time eligibility during the academic year.

During the summer, students do pay FICA tax on their wages and, therefore, are not exempt from the law during the summer period. Although many students during the summer receive pay through the Work-Study program, which would still make them exempt from the law, both Student Services and Human Resources have decided that all students will be eligible to accrue sick time hours during the summer work period. By policy, graduate students who receive monthly stipends during the summer, and who therefore don't submit weekly hours, will be allotted 40 hours of accrued sick time at the start of each summer that they work. Students who accrue hours during the summer, however, will not be able to use those hours if they work during the academic year, since they are effectively exempt from the law during the academic year. They will be able to carry over and use available accrued hours (up to 40) during the following summer, as long as the break in eligible service is no longer than 12 months (see question 14).

Information about Earned Sick Time, as well as other policies and guidelines concerning Boston College students employed in hourly-paid/weekly payroll jobs, is available on the Student Services website at www.bc.edu/studentemployment.