

Series 4000: District Employment

4100 Employee Rights and Responsibilities

4113 Michigan Earned Sick Time Act (ESTA) [Required for Districts with At Least 10 Employees] [Note: If the District has less than 10 employees, please contact the Thrun Board Policy Administrator to receive a different version of this ESTA policy.]

A. General

This Policy will only apply if ESTA is in effect.

Eligible employees may accrue and use paid leave as provided by the ESTA. Applicable provisions of a collective bargaining agreement, individual employment contract, or handbook, which exceed the rights provided to employees under the ESTA, remain in place and may provide additional paid leave time that is not provided by the ESTA.

If a collective bargaining agreement is in effect on February 21, 2025, the ESTA does not apply to employees subject to that collective bargaining agreement until the collective bargaining agreement's expiration date. The ESTA does not preempt or override the terms of a collective bargaining agreement in effect on February 21, 2025.

B. Definitions

1. Benefit year: the 12-month period from July 1 to June 30. [Optional: may adjust 12-month period]

2. Family member:

a. biological, adopted, or foster child, stepchild or legal ward, a child of a domestic partner, or a child to whom the eligible employee stands *in loco parentis*;

b. biological parent, foster parent, stepparent, or adoptive parent or legal guardian of an eligible employee or an eligible employee's spouse (under the laws of any state) or domestic partner or a person who stood *in loco parentis* when the eligible employee was a minor child;

c. grandparent, grandchild, and biological, foster, or adopted sibling; or

d. any other individual related by blood or affinity whose close association with the eligible employee is the equivalent of a family relationship.

3. All other ESTA-defined terms apply to this Policy.

C. Eligibility

A newly hired employee may not use accrued earned sick time until 90 calendar days after the employee's start date, unless otherwise provided in a collective

bargaining agreement, individual employment contract, employee handbook, or ESTA. If a collective bargaining agreement is in effect on February 21, 2025, bargaining unit members are not eligible employees until the collective bargaining agreement's expiration date.

D. Accrual of ESTA Leave

Unless subject to a grandfathered collective bargaining agreement, an employee begins accruing earned sick time on February 21, 2025 or the employee's start date, whichever is later.

An eligible employee will receive 1 hour of earned sick time for every 30 hours worked, but the eligible employee may only use up to 72 hours of earned sick time in a single benefit year. An FLSA-exempt eligible employee is assumed to work 40 hours per workweek unless the employee's normal workweek is less than 40 hours.

Accrued leave will carry over from benefit year to benefit year. The District may frontload earned sick time in increments that comply with the ESTA.

If ESTA is in effect, leave for any ESTA qualifying circumstances up to a maximum of 72 hours per benefit year will run concurrently with other paid leave benefits as allowed by ESTA. When an eligible employee uses other paid leave benefits for an ESTA qualifying circumstance, the employee's paid time is first deducted from the earned sick time accrued under ESTA. Additional absences, above and beyond earned sick time under ESTA, are governed by an applicable collective bargaining agreement, individual employment contract, or Board Policy.

As used in this subsection, "other paid leave" benefits includes but is not limited to paid vacation days, personal days, sick days, and other paid time off. Earned sick time can be used for the purposes, and subject to the conditions, described below.

E. Qualifying Circumstances

An eligible employee may use earned sick time for the following reasons:

1. the employee's mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment of the employee's mental or physical illness, injury, or health condition; or preventative medical care for the employee;
2. for the employee's family member's mental or physical illness, injury, or health condition; medical diagnosis, care, or treatment of the employee's family member's mental or physical illness, injury, or health condition; or preventative medical care for a family member of the employee;
3. if the employee or the employee's family member is a victim of domestic violence or sexual assault, for medical care or psychological or other counseling for physical or psychological injury or disability; to obtain services from a victim services organization; to relocate due to domestic violence or

- sexual assault; to obtain legal services; or to participate in any civil or criminal proceedings related to or resulting from the domestic violence or sexual assault;
4. for meetings at a child's school or place of care related to the child's health or disability, or the effects of domestic violence or sexual assault on the child; or
 5. for closure of the employee's place of business by order of a public official due to a public health emergency; for an employee's need to care for a child whose school or place of care has been closed by order of a public official due to a public health emergency; or when it has been determined by the health authorities having jurisdiction or by a health care provider that the employee's or employee's family member's presence in the community would jeopardize the health of others because of the employee's or family member's exposure to a communicable disease, whether or not the employee or family member has actually contracted the communicable disease.

F. Use of ESTA Leave

When requesting use of earned sick time, if the eligible employee's need to use leave is foreseeable, the employee must provide notice to the District of the employee's intent to use earned sick time at least 7 days prior to the date leave is to begin. If the eligible employee's need to use leave is not foreseeable, the employee must provide notice to the District of the employee's intent to use earned sick time as soon as practicable. For leave of more than 3 consecutive days, upon District request the eligible employee must provide the District in a timely manner with documentation that earned sick time was used for an ESTA purpose. The District will be responsible for paying the eligible employee's expenses in obtaining the requested documentation.

In cases of domestic violence or sexual assault, sufficient documentation includes any of the following:

- a police report indicating that the employee or the employee's family member was a victim of domestic violence or sexual assault;
- a signed statement from a victim and witness advocate affirming that the employee or the employee's family member is receiving services from a victim services organization; or
- a court document indicating that the employee or the employee's family member is involved in legal action related to domestic violence or sexual assault.

All health, sexual assault, and domestic violence information and documentation received from an employee about earned sick time remains confidential and will not be disclosed, except to the employee, with the employee's written permission, or as and to the extent required by law.

Failure to comply with notice procedures or document requests to support the use of earned sick time may result in discipline, including discharge.

Unless otherwise provided in an employee's collective bargaining agreement, individual employment contract, or handbook:

- earned sick time must be used in [] [Note: Insert the smaller of "hourly" or the smallest increment that the District's payroll system uses to account for absences] increments;
- an employee using earned sick time will not receive overtime pay, holiday pay, or bonuses for the earned sick time;
- upon discharge or other separation from employment, an employee automatically loses accrued earned sick time unless the employee is rehired by the District within 6 months of the separation; and
- accrued earned sick time that is not used before an employee's discharge or any other separation from employment will have no monetary value, subject to the ESTA requirement to reinstate previously accrued and unused earned sick time if the employee is rehired by the District within 6 months of the separation.

G. Notice and Recordkeeping

The District will:

- provide an ESTA notice created by the Michigan Department of Labor and Economic Opportunity to each eligible employee at hire or by February 21, 2025, whichever is later (see 4113-F);
- display in a conspicuous location in each of its buildings the ESTA poster created by the Michigan Department of Labor and Economic Opportunity; and
- retain for not less than 3 years records documenting hours worked and earned sick time taken by employees.

Legal authority: MCL 408.934b, 408.961 et seq., *Mothering Justice v Attorney General*, 2024 Mich LEXIS 1454 (July 31, 2024)

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