



# Sick Leave for Non-Salaried Employees

Approved by Vista Grande Public Library Board of Directors — 12-20-21

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## **Contents:**

Sick Leave For Non-salaried Employees .....	1
Notice by Employer.....	1
Definitions, Accrual and Usage .....	1
Salaried Employees .....	5
Additional Documentation.....	5

## **SICK LEAVE FOR NON-SALARIED EMPLOYEES**

In accordance with State of New Mexico HB0020, “Healthy Workplaces Act,” as presented under Section 50-17-8 (NMSA) 1978 and Title 11, Chapter 1, Part 6, Sections 11.1.6.1 through 11.1.6.29 issued by the State of New Mexico Department of Workforce Solutions, Labor Relations Division (LRD), the Vista Grande Public Library (VGPL) shall adopt a Sick Leave Policy for Non-Salaried Employees.

Per the “Act”, beginning January 1, 2022, and no later than the start of FY2022 (July 2022), non-salaried employees of VGPL shall accrue a minimum of one hour of earned sick leave for every thirty hours worked.

### **NOTICE BY EMPLOYER**

VGPL shall give written or electronic notice to an employee at the commencement of employment of the employee’s rights to earned sick leave; the manner in which sick leave is accrued and calculated; the terms of use of earned sick leave as guaranteed by the Act; that retaliation against employees for using sick leave is prohibited; the employee’s right to file a complaint with the LRD if earned sick leave accrual or use is denied or if the employee is retaliated against; and all means of enforcing the Act.

### **DEFINITIONS, ACCRUAL AND USAGE**

- "Earned sick leave" means time that is compensated at the same hourly rate and with the same benefits, including health care benefits, as an employee normally earns during hours worked and

is provided by VGPL to that employee for the purposes described in the Healthy Workplaces Act, but in no case shall the hourly rate be less than the applicable legally required minimum wage rate.

- An employee is defined as a person employed for more than 80 hours during a 12-month period
- Beginning January 1, 2021, earned sick leave hours shall be accrued each biweekly pay period for each existing employee or upon commencement of a new employee's employment and only after each 30 hours of work performed, payroll recorded, and hours paid.
- Employees shall not be entitled to use more than sixty-four hours of earned sick leave per twelve-month period.
- Employees shall be entitled to use accrued earned sick leave beginning on the thirtieth calendar day following commencement of their employment. After the thirtieth calendar day of employment, employees may use earned sick leave as it is accrued.
- Accrued unused earned sick leave shall carry over from year to year, but VGPL is not required to permit an employee to use more than the maximum time in a twelve-month period.
- VGPL is not required to offer reimbursement to an employee upon the employee's termination, resignation, retirement, or other separation from employment for accrued or earned sick leave that has not been used.
- An employee may use earned sick leave for the employee's:
  - mental or physical illness, injury, or health condition;
  - medical diagnosis, care, or treatment of a mental or physical illness, injury or health condition; or preventive medical care;
  - care of family members of the employee for: mental or physical illness, injury, or health condition;
  - medical diagnosis, care or treatment of a mental or physical illness, injury or health condition; or preventive medical care;
  - meetings at the employee's child's school or place of care related to the child's health or disability;
  - 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 professional 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; or
    - absence necessary due to domestic abuse, sexual assault or stalking suffered by the employee or a family member of the employee, provided that the leave is for the employee to:
      - (a) obtain medical or psychological treatment or other counseling;
      - (b) relocate;
      - (c) prepare for or participate in legal proceedings; or
      - (d) obtain services or assist a family member of the employee with any of the activities above
- Earned sick leave shall be provided upon the oral or written request of an employee to the Library Director or an Executive Board Member. When possible, the request shall include the expected duration of the sick leave absence. When the use of earned sick leave is foreseeable, the employee shall make a good faith effort to provide oral or written notice of the need for such sick leave to VGPL in advance of the use of the earned sick leave and shall make a reasonable effort to schedule the use of earned sick leave in a manner that does not unduly disrupt the operations of VGPL. When the use of earned sick leave is not foreseeable, the employee shall notify VGPL orally or in writing as soon as practicable.
- VGPL may not require, as a condition of an employee's taking earned sick leave, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned sick leave.
- Earned sick leave may be used in the smallest increment that VGPL's payroll system uses to account for absences or use of other time.
- VGPL shall not require an employee to use other paid leave before the employee uses sick leave pursuant to the Healthy Workplaces Act.
- Documentation shall not be required for sick leave, except VGPL may require reasonable documentation that sick leave has been used for a covered purpose if the employee uses three or more consecutive days of sick leave.

- Documentation signed by a health care professional indicating the amount of earned sick leave taken is necessary shall be considered reasonable documentation for sick leave taken pursuant to the Healthy Workplaces Act. In cases of domestic abuse, sexual assault or stalking, reasonable documentation may include a police report, a court-issued document or a signed statement from a victim services organization, clergy member, attorney, advocate or other person affirming that the sick leave was taken for one of the purposes set forth in Paragraph (5) of Subsection E of Section 4 of the Healthy Workplaces Act. VGPL may not require the documentation to explain the nature of any medical condition or the details of the domestic abuse, sexual assault or stalking.
- If VGPL chooses to require documentation for the purpose of the use of earned sick leave, VGPL shall pay the cost of any verification by a health care.
- An employee shall provide documentation upon request to VGPL in a timely manner. VGPL shall not delay the commencement of earned sick leave on the basis that VGPL has not yet received documentation.
- All information VGPL obtains related to an employee's reasons for taking sick leave shall be treated as confidential and not disclosed except with the permission of the employee or as necessary for validation purposes for insurance disability claims, accommodations consistent with the federal Americans with Disabilities Act of 1990, as required by the Healthy Workplaces Act or by court order.
- VGPL shall give written notice to an employee at the commencement of employment of the following:
  - the employee's right to earned sick leave;
  - the manner in which sick leave is accrued and calculated;
  - the terms of the use of earned sick leave as guaranteed by the Healthy Workplaces Act;
  - that retaliation against employees for the use of sick leave is prohibited; and
  - the employee's right to file a complaint.

VGPL shall retain for the immediately preceding forty-eight-month period records documenting hours worked by employees and earned sick leave accrued and taken by employees.

## **SALARIED EMPLOYEES**

A separate leave policy is in place for salaried employees.

## **ADDITIONAL DOCUMENTATION**

<https://www.nmlegis.gov/Sessions/21%20Regular/final/HB0020.pdf>

[https://www.dws.state.nm.us/Portals/0/DM/LaborRelations/Healthy Workplaces Act Proposed Rules.pdf?ver=2021-11-16-154742-010](https://www.dws.state.nm.us/Portals/0/DM/LaborRelations/Healthy_Workplaces_Act_Proposed_Rules.pdf?ver=2021-11-16-154742-010)