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Earned Sick and Safe Time and COVID-19 Frequently Asked Questions

Everyone can play a part in keeping our community safe and healthy by ensuring that they take some basic precautions to help stop the spread of infectious disease. Employers and workers can help lead the way by ensuring that everyone in the City of Duluth is able to use their Earned Sick and Safe Time (ESST). This document is intended to provide guidance and to answer questions that you may have about Duluth's Earned Sick and Safe Time law.

For more information, visit: <https://duluthmn.gov/city-clerk/earned-sick-safe-time/about-earned-sick-safe-time/>

What is the Duluth Earned Sick and Safe Time ordinance?

The earned sick and safe time ordinance is a law in Duluth that guarantees paid time off work for certain types of employees that work in the city. It does not apply to independent contractors, student interns, seasonal employees, or certain railroad workers.

Which employers must provide ESST?

The ordinance applies to any individual, corporation, partnership, association, nonprofit organization, or group of people that has 5 or more employees, whether or not all of the employees work in the city. Both full-time and part-time employees are covered.

Under what circumstances may an employee use "sick time"?

An employee may use "sick time" for an absence from work resulting from the employee's own mental or physical illness, injury, or health condition. This includes the employee's need for medical diagnosis, care, treatment, or preventative medical care.

An employee may also use "sick time" to provide care for a family member with a mental or physical illness, or health condition. This includes a family member who needs medical diagnosis, care or treatment of mental or physical illness, injury, health condition, or preventative care.

Does an employee have to find someone to cover the hours they need to take ESST?

No. An employer cannot require an employee to find someone to cover their ESST hours.



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Who is considered a “family member” under the ordinance?

A “family member” under the ordinance includes a child, stepchild, adopted child, foster child, legal ward, child for whom the employee is a legal guardian, spouse, domestic partner, sibling, stepsibling, foster sibling, parent, stepparent, mother-in-law, father-in-law, grandchild, foster grandchild, grandparent, step-grandparent, and any other individual related by blood or whose close association with the employee is the equivalent of a family relationship.

What if an employee has used all their accrued ESST or is a new employee without any accrued leave?

An employer is only required to allow an employee to use accrued hours of ESST. In their discretion, employers can provide more paid leave or allow the use of vacation or other accrued leave. Other laws may require an employer to provide employees with leave, including: the Family and Medical Leave Act and federal or state disability laws.

Can an employer prevent an employee from working because they traveled to a country that has an outbreak?

Travel to a particular country or region is not a reliable indicator of whether someone has been exposed to COVID-19. No one group is responsible nor should be targeted as the cause of a COVID-19 outbreak. Taking an adverse employment action based on an employee’s ethnicity or national origin could give rise to a claim of discrimination. For more information, please see the following: <https://duluthmn.gov/human-rights-office/>

Can an employer require an employee to go home sick?

The ESST law does not prohibit an employer from sending an employee home because of illness. However, please note that other state and local laws may determine whether it is lawful or a requirement to send someone home. For more information, see: <https://www.health.state.mn.us/people/foodsafety/dwi/>

Can an employee use ESST for reasons other than those that are protected by the law?

Yes. An employer can allow for the use of ESST for reasons not covered by the law.