



UPS Teamster Times

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UPS vs. the Washington Paid Sick Leave Act: FAQ

The rollout of the new Washington State Paid Sick Leave Act on January 1 of this year has been a challenge for many Local 174 signatory employers. However, none seem to have had as many issues with following the new law as UPS. Because of this, we have put together this FAQ guide for you to understand how the law *should* be working for you at UPS. If UPS is not following the law properly in your particular case, you can take action! We are working with the Washington State Department of Labor & Industries and with UPS management directly at the negotiating table to ensure UPS is following state law.

How does the law work?

UPS must now accrue paid sick leave for you at a rate of 1 hour per 40 hours worked, and that new bank of paid leave must follow a complete set of rules that are different from the rules set out in your Teamster contract regarding the use of paid sick leave. (Note that your Teamster contract covers paid sick leave in the Joint Council 28 rider — contract page 246-250 for full-time employees and page 284-285 for part-time employees).

You can learn more about the new law by visiting www.lni.wa.gov, but the basics are as follows:

- Accrual rate is 1 hour per 40 worked, on all hours worked
- Leave must be paid at the normal hourly rate of compensation you

would have earned for that time

- You can start using paid sick leave beginning the 90th calendar day of your employment
- You must be allowed to carry over a minimum of 40 hours of unused leave into the next year
- Leave can be used in increments of an hour or less — not a full 8 hours
- Leave may be used for:
 - Absences due to the illness, injury or health condition, medical diagnosis, care or treatment or preventive medical care of you or your family members;
 - When your workplace or your child's school or place of care has been closed by a public official for any health-related reason;
 - Absences that qualify for leave under the state's Domestic Violence Leave Act.
- The "family members" that you can use your leave to care for include: child, parent, spouse, registered domestic partner, spouse's or registered domestic partner's parent, grandparent, grandchild, or sibling.

Why is my PST balance negative even though I have contractual sick leave accrued?

UPS has made the decision to track contractual leave (labeled OTH on your pay stub) separately from the leave required by the law (labeled PST on your pay stub). Because these two

banks are being tracked separately, imagine that they are in no way connected to each other. Each bank accrues at its own appropriate rate, and then if you use leave, each bank has the appropriate amount of hours withdrawn from it. Therefore, if your PST bank only had 2 hours in it and you called in sick for the day, you would be left with a PST balance of -6 while 8 hours would be taken from your OTH bank.

HOWEVER — there is one critical element of the law that we believe UPS has not followed properly when it comes to allowing negative balances in the PST sick leave bank.

It is Local 174's position that by allowing you to carry a negative balance in your PST bank, UPS is actually frontloading you paid sick leave hours.

After several conversations with the Washington State Department of L&I — which is the government body tasked with enforcing this law — it is Local 174's position that by allowing you to carry a negative balance in your PST bank, UPS is actually frontloading you paid sick leave hours. (Note: 'frontloading' is when leave is 'paid in advance': it is given to you in a lump sum at the beginning of a period of time, to be used throughout the period during which it actually accrues).

The reasoning for our position is simple: by allowing a negative balance, UPS is essentially allowing you to use

your Washington State Paid Sick Leave before you have accrued it. This is, by definition, frontloading your sick leave. It is no different than if they had put 48 hours into your PST bank on January 1. The effect is the same; the company is simply accounting for it differently.

UPS management has vigorously rejected this position, insisting that even though they are allowing balances to go below zero, they are still not technically frontloading your leave. This battle will continue to be fought at the bargaining table and legally through the Department of L&I. We hope to have a conclusion soon; however, we felt it was important to address this issue with you all and let you know that we are aware of it and we do not feel that UPS is following the law by allowing these negative balances.

This issue of unaddressed frontloading of leave brings us to the next major question we have come across:

Occurrences/Discipline Rules?

Under the law, it is now illegal for UPS to penalize you in any way for using your Washington State Paid Sick Leave. This means they cannot discipline you, nor can they issue you occurrences towards discipline, as long as you have leave accrued under the state law.

This is where the frontloading issue becomes even more important. If UPS is in fact frontloading your leave — whether they want to call it that or not — then they cannot give you occurrences for calling in sick until you have fully exhausted all the leave they have frontloaded you.

However, we have no way of knowing exactly how much leave they are willing to frontload (i.e. how far into the negative will they allow that PST bank to go? -100 hours? -200 hours?)


since they do not currently have a written frontloading policy as required by the law.

They cannot discipline you whatsoever for calling in sick until and unless a new policy is developed.

Our position, therefore, is that they cannot discipline you whatsoever for calling in sick until and unless a new policy is developed that follows the law and works in tandem with your Teamster contract.

PST Accrual is Inaccurate?

Another common issue that has come up is that the PST bank does not seem to be accruing at the correct rate. It should be accruing at a rate of 1 hour per 40 hours worked, in increments of one whole hour. This means that if you work 50 hours in one week, you should receive 1 hour of sick leave and then ten hours will go towards your next full hour of PST leave. If you call in sick for a whole day, the balance should drop by 8 hours (4 hours for P/T).

For many of you, the accruals do not seem to be following these rules, primarily due to what appear to be payroll glitches. You can look at  UPSers.com your UPS pay stubs on UPS's site www.upsers.com. You can plug in the data from those pay stubs to our calculator at:

www.teamsters174.net/ups-calc to see approximately what your PST balance should be. If the balance shown on your pay stub is different, contact your shop steward immediately.

Floating Holidays?

It is NOT legal for UPS to charge you paid sick leave from your PST bank if you take a floating holiday.

Withdrawing from Both Banks?

We have received numerous questions regarding UPS withdrawing 8 hours from both the PST and OTH banks whenever you call in sick. In this case, UPS does seem to be behaving appropriately. As mentioned earlier, the two banks are completely independent of each other. They accrue at different rates (PST = 1 hour per 40 worked; OTH = 40 hours per year [20 for P/T], accrued monthly). When you call in sick, the number of hours of sick leave you use will be withdrawn from both banks simply because sick leave has been paid into both banks. In other words, you are not being charged 16 hours of leave if you call in sick for one day, even though it may appear that way.

What Do I Do When There are Problems?

Unfortunately, the Grievance process is not very helpful when it comes to the Washington State Sick Leave law, simply because it is governed by state law rather than by your Teamster contract.

However, what Local 174 can do is assist in collective action! *If you have specific examples of UPS not following the law*, please get together with your coworkers and talk to your shop steward. Work together to file complaints with the Department of L&I. These complaints will help force UPS to address its deficiencies in following the law, and will also help Local 174 at the negotiating table as we attempt to bargain better sick leave language into the JC28 rider to the contract.

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secure.lni.wa.gov/wagecomplaint