

1. Announcements And Updates

1.1. Review And Approval Of Minutes From October 24, 2017 Meeting

Documents:

[HHS OCT 24 MINUTES AMENDED.PDF](#)

2. Mandatory Paid Sick-Leave Ordinance *

- 10 Minute presentation/overview of ordinance
- Southern Maine Workers' Center
- Maine Women's Lobby
- Committee Questions & Discussion

*NOTE: NO Public Comment will be taken on the proposed sick-leave ordinance at this meeting. This meeting will serve as an introduction to the issue and a chance for the committee to seek clarification and further information as necessary. We anticipate holding a public hearing on this issue early 2018.

Documents:

[SICK LEAVE ORDINANCE FINAL .PDF](#)

[PSD HEALTH IMPACT PRESENTATION PPT BANKOLE 2017 NOV 14 TH MTG.PDF](#)

[PAID SICK LEAVE BANKOLE REPORT 2017 NOV 14.PDF](#)

3. Additional Material For Earned Paid Time Ordinance

Documents:

[ADDTL INFO FROM HHS NOV 14 MTG 2.PDF](#)

[ADDTL INFO FROM NOV 14 HHS MTG.PDF](#)

[MAYOR STRIMLING INFO ON PAID SICK LEAVE ORDINANCE.PDF](#)

[SICK LEAVE ORDINANCE PRESENTATION.PDF](#)

[SICK LEAVE ORDINANCE FINAL .PDF](#)

4. Civil Service Ordinance Updates

- Overview of Updates
- Fire Chief David Jackson
- Assisant Police Chief Vern Malloch

Documents:

[CH. 2 AMENDMENTS - HHS COMMITTEE 11142017.PDF](#)



David J. Jackson
Fire Chief, Fire Department

Health & Human Services Committee

**October 24th, 2017
5:30 PM/Room 24
City Hall,
Meeting Minutes**

Committee Attendance:

Belinda S. Ray, Chair (District 1), Brian Batson (District 3), Nicholas M. Mavodones, Jr. (At Large)

City Staff Attendance:

Director of Health & Human Services, Dawn Stiles; Fire Chief, David Jackson; Police Chief, Michael Sauschuck; Director Social Services, David MacLean; Social Services, Aaron Geyer; Oxford Street Shelter, Rob Parritt

AGENDA ITEM 1 – Meeting Called to Order and Minutes Reviewed:

Meeting was called to order at approximately 5:34PM

Chair Ray asked Rob Parritt if he would like to make an announcement. Rob stepped forward announced that the Oxford Street shelter would be moving forward to a 24 hour operation. This will in effect once staff is hired. They will be adding a Housing Specialist. They will be adding a storage location as well, and an additional bathroom unit.

Chair Ray had a few corrections (names misspelled, and to please add that the committee did in fact vote) all from previous meeting. Chair Ray continued moved to accept minutes from previous meeting. The motion was seconded with all in favor.

AGENDA ITEM 2 – Shelter Design

Proposed design that this is a draft design Chair Ray gave a detailed overview to what this entails. Chair Ray added there is no location as of yet as well as no funding.

Steve Weatherhead highlighted that this is just in design phase. Steve took the information from the meeting held in September

- Expanded the dayroom incorporated a variety of space
- multi-purpose room added
- The kitchen is similar to a set-up that a school would use
- The clinic (see diagram) is off to the left wing with a separate entrance
- Sleeping areas with 2 foot aisles
- 1:9 /1:8 counts for toilets.
- Overall square footage increased from 28k to 35k
- Tables went from circular to rectangle
- Increased the storage

Councilor Batson asked about sleeping during the day if needed. Steve addressed sleeping areas where partition space is can be utilized to have people sleep during the day if needed.

Dawn Stiles answered the question in regards to having a two-story shelter vs. one story. Having a two-story building they would have to duplicate costs such as exits, stairways, bathrooms etc. With the exemption of land. There may not be a site big enough for what we want.

<http://www.portlandmaine.gov/2098/Planning-for-New-Shelter-Services>

Chair Ray opened Public Comment at this time 5:50 p.m.

Curt Sachs- a licensed architect stake holder thru his volunteer work at Preble Street. Noticed some improvements. However, the bed layout is worse than the last time. The exit doors are unprotected, no security, not giving enough visual. If you go ahead to a one story concept - The kitchen is under sized. Sees more bathrooms, looks great. Feels it is inappropriate for committee to be looking at one story concept. Dawn gave an example on 1 vs 2 story this would share the same plumbing of a 2 story building. Will need a space meeting in order to progress. Stake holders were not involved in this process. Very dangerous to showing a schematic plan. It would be great to be involved in this project.

George Rheault, Bayside- ORIGINAL STAFF VERSION:

George Rheault, Bayside- disappointed in a single story concept. There are pro's and con's to this layout. Where in the city would this go? Is this possible in a city plan? Has noticed around the country that other cities ex: Salt Lake City, moved three shelters into a one size fits all and it failed. Drug Dealers would love this. This is a single minded focus. Be honest. Have a town hall meeting show us what has been done elsewhere and then continue the conversation.

Amended VERSION:

George Rheault, West Bayside. Disappointed that the City remains solely focused on a single-story concept to the complete exclusion of alternatives. He cited a Los Angeles Times story that specifically discussed how Salt Lake City is right now moving away from a consolidated single mega-shelter and dispersing those services into 3 distinct locations. All of the problems of the current Oxford Street shelter would be present in the vicinity of a new single-story mega-shelter. Indeed drug dealers would welcome their clientele all being located in one convenient place versus across multiple sites. There are pros and cons to a single-story facility as well as a multiple-story structure. Committee should be honest. Ask City staff to identify what are the possible city-owned sites available for a spread-out single-story facility. Is such a site even feasible after such an analysis? Additionally, the Committee should sponsor a town hall showing all the recent shelter projects completed across the nation in the last 15 years to help deepen the conversation beyond just a single-story focus.

FYI - here is a link to the LA Times article I cited: <http://www.latimes.com/nation/la-na-utah-shelters-20170707-story.html>

Scott M- A space program would help, that will start with this process, then start developing- we should be looking at a 2 story solution; will need to get an idea area for square footage. There maybe a few sites available – maybe have sleeping quarters downstairs and offices support could be upstairs. The layout of the dorm needs to be broken up to make more humane. Also, as you development sites look at activities to keep people active-likes the courtyard concept. Lastly, look at confidentiality for people having conversations in a large area for phone calls.

Jim Devine- Advocate for voice from Homeless for Justice, but is an electrician, mentioned that people said what he already wanted to say to the committee. Some people don't like sleeping in one large room people make them feel claustrophobic having people too close together in the sleeping quarters. Likes the suggestion on having 6 smaller shelters across the city more neighborhood experience.

Steve Hirshon –I know you can have a list of what you want, but how can you put a design out before knowing where it is going to go? Location possibilities, can't imagine if you were to put a shelter in a

neighborhood in for example, moving a shelter into Riverton – can't see people wanting a big shelter in their neighborhood. Should take a gentle approach to this in designing the new shelter.

Jan Bindas-Tennwe(spoke of behalf of Mark Swann from Preble Street where he couldn't be present for this meeting) thankful, gracious, committed, excited about the extension of Oxford Street moving to a 24 hour operations. Continue to be concerned about how the committee is moving forward on this topic. Three minute to discussion to the committee is not enough in a public comments session. A single story design will limit to where a shelter can go geographically. Should look at schools. Did do a little bit of researches of best practices across the country, some show 2, and 3 story buildings. Urban data is realistic. (See data handout) Preble Street would like to be a part of more discussions especially if they can go more than 3 minutes. Let us in.

Sara Michinewicz – By definition of an emergency shelter Emergency shelter is not intended for a long term stay. If Rob could answer this. What is the max length of stay? Services offered? How will this dovetail with smaller shelters



David J. Jackson
Fire Chief, Fire Department

Laura Cannon- had a request on not being able to locate was not able to locate the updated web page on the HHS page – once found the info there is good information on this page, should be better indexed, actually found link on Chair Ray's blog

Shawn Kerwin- multi story, good. Have you thought about 2nd & 3rd usage to provide more flex space.

Norman Maze- Shalom House- Congratulated Rob and his team! Invaluable learning tools

Chair Ray closed public Comment at 6:32 p.m.

Chair Ray & Committee Discussion; take this time to address the questions proposed during public comment.

How can we propose a design with no location? This is a concept design, diagram. What would it look like? This is a process, when we find a space we may find a 1 story accessibility space could constrain our decision. Keep in mind this not the final step. Just a process.

Councilor Mavodones asked, have we looked at square footage on an analysis that may fit in our city? NO. Can we ask staff to look at what is available?

Dawn answered – a RFP will be going out in a few weeks (required to do) Which will be helpful, this will start the final process. Will not be looking for space until we are confident in what we want. Dawn spoke to the fact she wanted to see what “we” want, and has been asking people.

Councilor Mavodones - If planning on 1 story would Planning be able to give us a sense of what we are looking at, if we believe a one story best. This could drive in creating a baseline by city staff. Chair Ray is going to ask if this information could be ready by next council meeting.

Chair Ray clarified the number of beds – One speaker suggested there were 186. There were 211

Rob responded to question on length of stay at the shelter- in a 1 year period average is 35/40 days. This number seems to be decreasing. Majority seem to stay less than 30 days if they get housing and never come back. Some (5 %/10%) of people may need to stay longer

Councilor Mavodones asked what is considered a long term stay? Rob Parritt - In a 1 year period people that stay up to 180 days or check-ins that equal up to a 180 days in the one year period.

Rob Parritt continued that all services have to hit numerous bench marks for Oxford Street Shelter to continue to receive funds for operations. Hoping that with the new shelter and services that it will be providing with keep clients less than 30 days. We want to decrease numbers. Homeless services is moving into the right direction.

Chair Ray- responded better links for the web page, yes we can fix this, add to agenda (it is there)



David J. Jackson
Fire Chief, Fire Department

Councilor Batson- No questions, but has a request. Encouraged the committee to look at sites before falling short on an actual location. Prior to any votes would like to look at requesting a cost analysis for 1 story vs 2 story (time frame post-election) before the workshop. If possible. Just be sure the location falls where it needs to be such as ¼ mile of metro.

Councilor Mavodones – presented the questions of prep of workshop

What is the process?

What type of analysis? With architect on board

Timeline?

Outline? What are the best practices? Would like a general idea

What are the staffing cost associated with a 2-story layout? Would find this helpful

Steve Weatherhead responded that a 2 story is possible, but could marry to a site, this exercise has stimulated a lot of great deal of conversation. Does it make sense to keep coming up with a fictional drawing with no site?

Councilor Batson, this is a numbers game, but added this is a public process could and be confusing to the public but encourages to have a two story layout, but could save money on land, and will help visually

Chair Ray – hopeful prior to Councilor workshop will ask the Planning Staff to look for a location; will be looking at 1 story vs 2 story layout, Cost analysis with operation cost included; this will help with elevators cost etc., the operations piece very important. A diagram of a multi-level would be helpful

Councilor Mavodones asked how much we are paying Steve.

Steve added he is doing this pro bono

Chair Ray reminded everyone that the city is looking to create one emergency shelter to replace Oxford Street. However, if someone else from another entity wants to open a smaller shelter - zoning is changing for the requirements for someone else to open a smaller shelter.

Timeline will work on having more conversations more than 3 minutes.

Next Step:

- Council Workshop in December
- RFP going out in a few weeks
- request land info

Meeting adjourned



David J. Jackson
Fire Chief, Fire Department

AGENDA ITEM 3-

AGENDA ITEM 4-

Meeting adjourned 7:24 p.m.

Definitions

The following definitions shall apply for purposes of this Article:

Earned paid sick time shall mean paid sick time accrued and awarded pursuant to section X.

Employee shall have the same meaning as in Sec. 33.2 of this Code.

Employer shall have the same meaning as in Sec. 33.2 of this Code.

Family member shall mean: (A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor; (B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child; (C) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision; (D) A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; (E) A person for whom the employee is responsible for providing or arranging care, including but not limited to helping that individual obtain diagnostic, preventive, routine or therapeutic health treatment; or (F) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Health care professional shall have the same meaning as in 26 M.R.S. § 843.

Year shall mean a regular and consecutive 12-month period as determined by the employer.

Accrual of Earned Paid Sick Time

(a) All employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours of work, up to a maximum accrual of 48 hours in one year.

1. Employees who are exempt from overtime requirements under the Fair Labor Standards Act will be deemed to work 40 hours in each work week for purposes of earned paid sick time accrual, unless their normal work week is less than 40 hours, in which case earned paid sick time accrues based upon that normal work week.
2. Employees shall begin to accrue earned paid sick time at the commencement of employment or on the date this law goes into effect, whichever is later.

3. Accrued paid sick time shall be awarded and available for use no more than eight days after it is accrued. Alternatively, an employer may award paid sick time in advance of accrual in an amount anticipated to be accrued over a year's time.

(b) Earned paid sick time shall not be automatically forfeited with the passage of time, unless the employer has a policy to pay the employee for any remaining sick time at set intervals of not less than one year.

However, nothing in this Article shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

(c) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within two months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(d) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(e) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

(f) Any employer that has a paid leave policy that makes available an amount of paid leave sufficient to meet the accrual requirements of this section, and allows that paid leave to be used for the same purposes and under the same conditions as earned paid sick time under this ordinance, is not required to provide additional paid sick time.

Use of Earned Paid Sick Time

- (a) Employees may use earned paid sick time for any of the following:
1. Job protected leave provided pursuant to the Maine Employment Leave for Victims of Violence statute;
 2. Leave for an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care or treatment of a mental or

physical illness, injury, or health condition; or an employee's need for preventative medical care;

3. Leave for care of a family member's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventative medical care; or
4. Leave to attend a school meeting or meeting at a place where a family member is receiving care necessitated by the family member's health condition or disability.

(b) Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

(c) Employees may not use more than 48 hours of earned paid sick time in a year, unless the employer selects a higher limit.

Procedures for Taking Earned Paid Sick Time

(a) Earned paid sick time shall be provided upon the request of an employee.

1. An employer may not require more than five days' notice for an employee to use earned paid sick time, when the need is foreseeable.
2. When the need for use of earned paid sick time is not foreseeable, an employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case
3. An employer that requires notice of the need to use earned paid sick time shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.
4. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

(b) An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

(c) For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by **Sec. X**(a)(2) through (a)(4). An employer may not require that the documentation explain the nature of the reasons for leave. However, nothing in this section shall be construed to limit an employer's rights with respect to documentation of leave allowed under state or federal law.

1. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.
2. If an employer requires documentation of the reasons for taking earned paid sick time, the employer is responsible for paying the employee's out-of-pocket costs for obtaining such documentation.

Section 4. Exercise of Rights Protected; Retaliation Prohibited

(a) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Article.

(b) It shall be unlawful for an employer or any other person to retaliate against an employee for exercising his or her rights under this Article, including requesting or using earned paid sick time; filing a complaint or otherwise complaining about an employer's alleged violation of this Article; participating in an investigation or other proceeding under this Article; or informing others of their rights under this Article.

(c) It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under this Act as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action. However, nothing in this Article shall be construed to prohibit an employer from taking disciplinary action against an employee who uses earned paid sick time for purposes other than those described in this Article.

(d) Protections of this section shall apply to any person who mistakenly but reasonably alleges a violation of this Article.

Notice of Rights

(a) Employers shall both display a poster notifying employees of their rights under this Article, and give employees written notice at the commencement of employment

or the effective date of this ordinance, whichever is later. The poster and notice shall be consistent with this section.

(b) The notice and poster shall contain the following information: that employees are entitled to earned paid sick time and the amount of earned paid sick time; the terms of its use guaranteed under this Act; that retaliation is prohibited; that each employee has the right to file a complaint or bring a civil action if earned paid sick time as required by this Act is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking earned paid sick time, and the contact information for the City of Portland where questions about rights and responsibilities under this Act can be answered.

(c) The notice and poster shall be provided in English, Spanish, Somali, Chinese, Vietnamese, Russian, Croatian, French, Arabic, Polish, Acholi, Farsi, Dinka, Khmer, Creole and any language that is the first language spoken by at least 5% of the employer's workforce, provided that such notice has been provided by the City of Portland.

(d) The City of Portland shall create and make available to employers, in all languages spoken by more than 5% of the City's workforce and any language deemed appropriate by the City of Portland, model notices and posters meeting the requirements of this section.

(e) The amount of earned paid sick time available to the employee, the amount of earned paid sick time taken by the employee to date in the year and the amount of pay the employee has received as earned paid sick time shall be recorded in, or on an attachment to, the employee's regular paycheck.

(f) An employer who willfully violates this section shall be subject to a civil fine in an amount not to exceed \$100 for each separate offense.

Recordkeeping Requirements

(a) Employers shall retain records documenting hours worked by employees and earned paid sick time earned and taken by employees for a period of six (6) years.

(b) Employers shall allow the City of Portland access to the records required by this section, with appropriate notice and at a mutually agreeable time.

(c) When an issue arises as to an employee's entitlement to earned paid sick time under this Article, if the employer has not maintained adequate records required by this section, or does not allow the City of Portland reasonable access to such records, it shall be presumed that the employer has violated this Article, absent clear and convincing evidence otherwise.

Enforcement

(a) Enforcement.

1. The City Manager or his/her designee shall enforce the provisions of this ordinance.
2. The City Manager shall adopt rules and regulations for the proper administration and enforcement of this ordinance.

(b) Complaint Process

1. Any Employee, including, but not limited to, a Service Employee, alleging a violation of this ordinance may file a written complaint with the City Manager's office.
2. The City Manager or his or her designee may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.
3. If the City Manager finds that a violation of this chapter has occurred, he or she may order any and all appropriate relief including, but not limited to, three times the amount of any back wages withheld and the payment of not less than \$100.00 to the employee as a penalty for each day that a violation of this chapter has occurred. If a violation occurred but did not result in wages being withheld, such as in the case of an employee who worked after being unlawfully denied permission to use earned paid sick time, appropriate relief shall include an additional amount of two times what the employee was paid.
4. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(c) Private Cause of Action.

1. Any Employee, including, but not limited to, a Service Employee, the City or any person aggrieved by a violation of this ordinance may bring an action in a Court of competent jurisdiction against the Employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Such action may be brought by a person aggrieved by a violation of this section without first filing a complaint with the City Manager. Actions brought pursuant to this section may be brought as a class action pursuant to the laws of Maine.
2. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.
3. Where applicable, remedies shall also include equitable relief, including reinstatement and back pay, and injunctive relief.

4. The City of Portland shall annually report on the City of Portland website the number and nature of the complaints received pursuant to this ordinance, the results of investigations undertaken pursuant to this ordinance, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this ordinance, and the average time for a complaint to be resolved pursuant to this chapter.

Confidentiality and Nondisclosure

If an employer possesses health information or information pertaining to domestic violence, sexual assault, harassment or stalking about an employee or employee's family member, such information shall be treated as confidential and not disclosed except to the affected employee, with the permission of the affected employee, as required for the administration of the leave, or as otherwise required by law.

Encouragement of More Generous Earned Paid Sick Time Policies; No Effect on More Generous Policies or Laws

(a.a.i.1.a) Nothing in this Act shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

(a.a.i.1.b) Nothing in this Act shall be construed as diminishing the obligation of an employer to comply with any law, regulation, contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein.

Public Education and Outreach

The City of Portland shall develop and implement a multilingual outreach program to inform employees about the availability of earned paid sick time under this ordinance. This program shall include the distribution of notices and other written materials in English, and well as Spanish, Somali, Chinese, Vietnamese, Russian, Croatian, French, Arabic, Polish, Acholi, Farsi, Dinka, Khmer, Creole to all child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers.

Regulations

The city manager, or his or her designee, shall be authorized to coordinate implementation and enforcement of this Article and shall promulgate appropriate guidelines or regulations for such purposes.

Severability

If any provision of this Act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Effective Date

This Act will take effect on July 1, 2018.

A Health Impact of Paid Sick Days Public Health Perspective City of Portland Health & Human Services Department

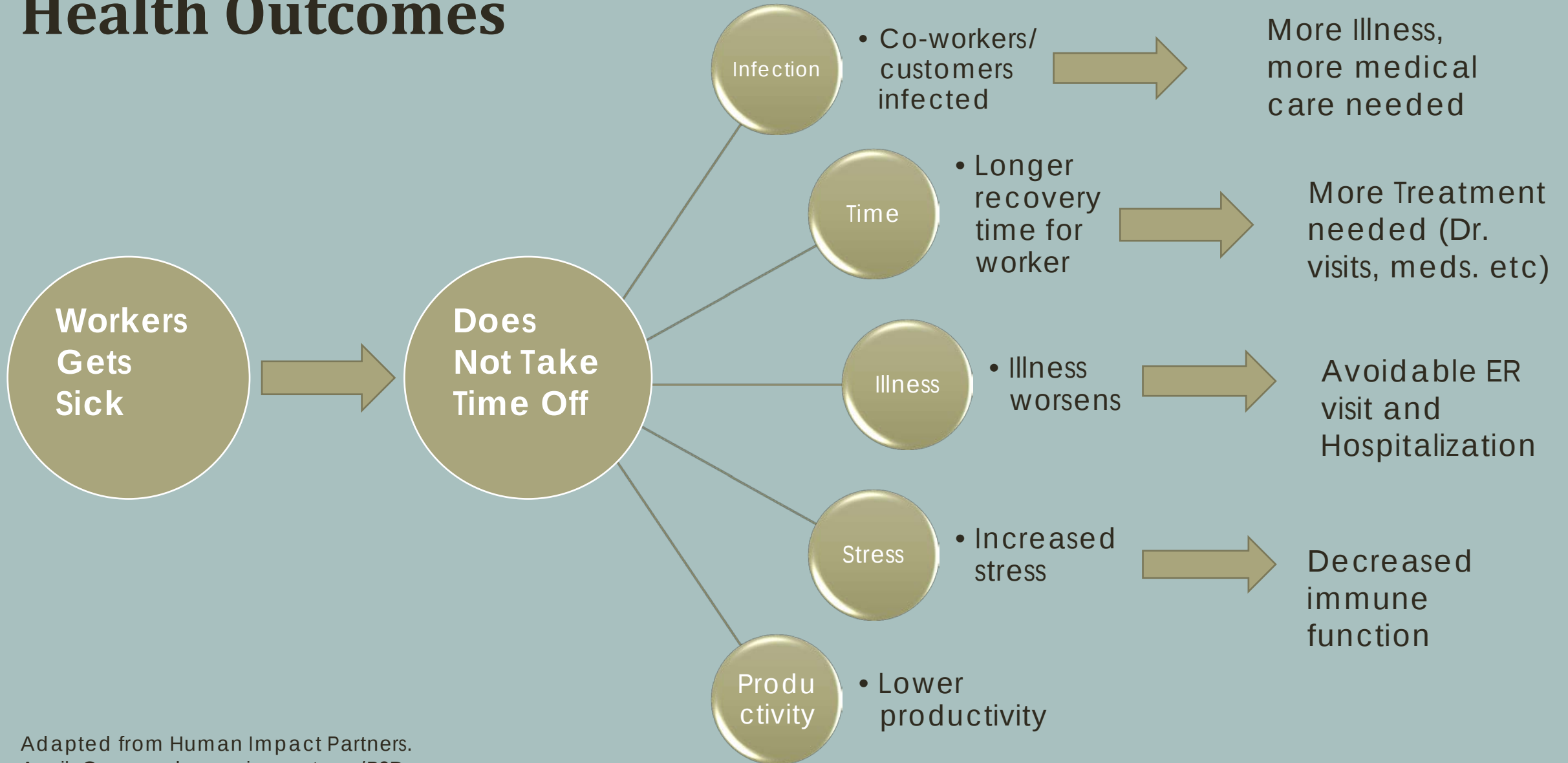


Kolawole Bankole, MD, MS, MBA
Director, Public Health Division

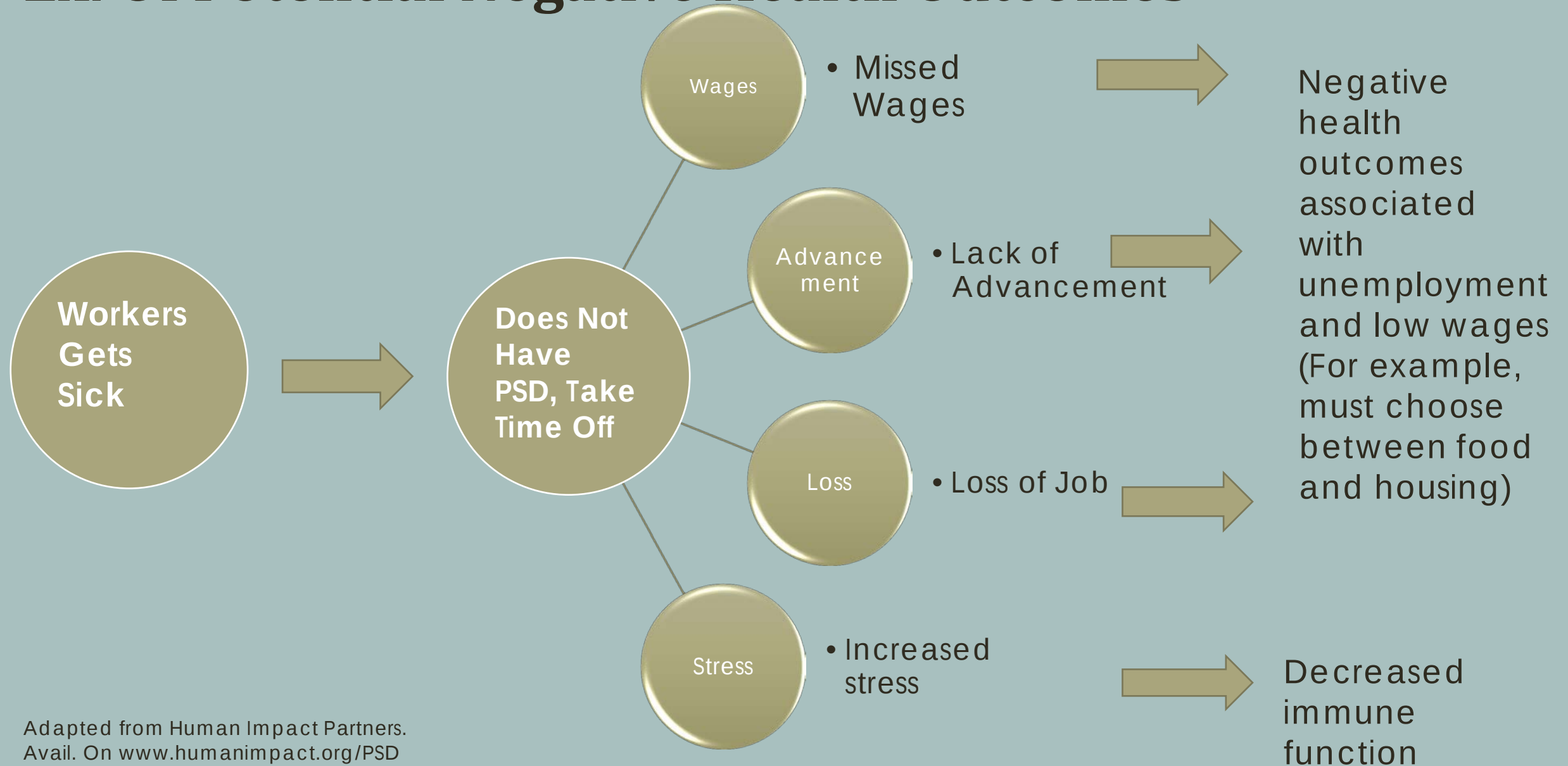
A Health Impact of Paid Sick Days Public Health Perspective



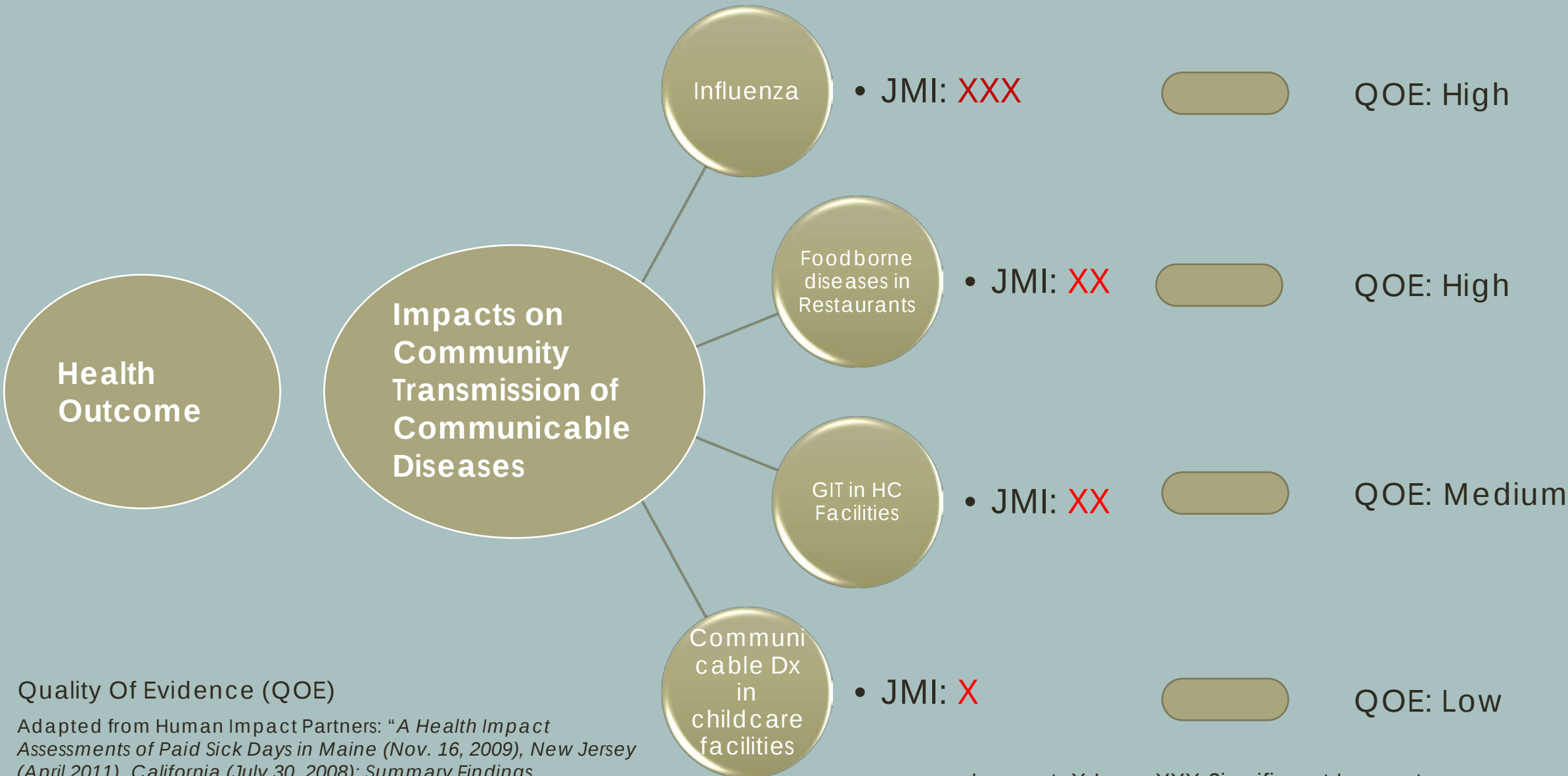
Taking No Time off When Sick: Ex. Of Potential Negative Health Outcomes



Taking Time Off When Sick, Without Paid Sick Days: Ex. Of Potential Negative Health Outcomes



Health Outcomes and Judgement of Magnitude of Impacts (JMI)

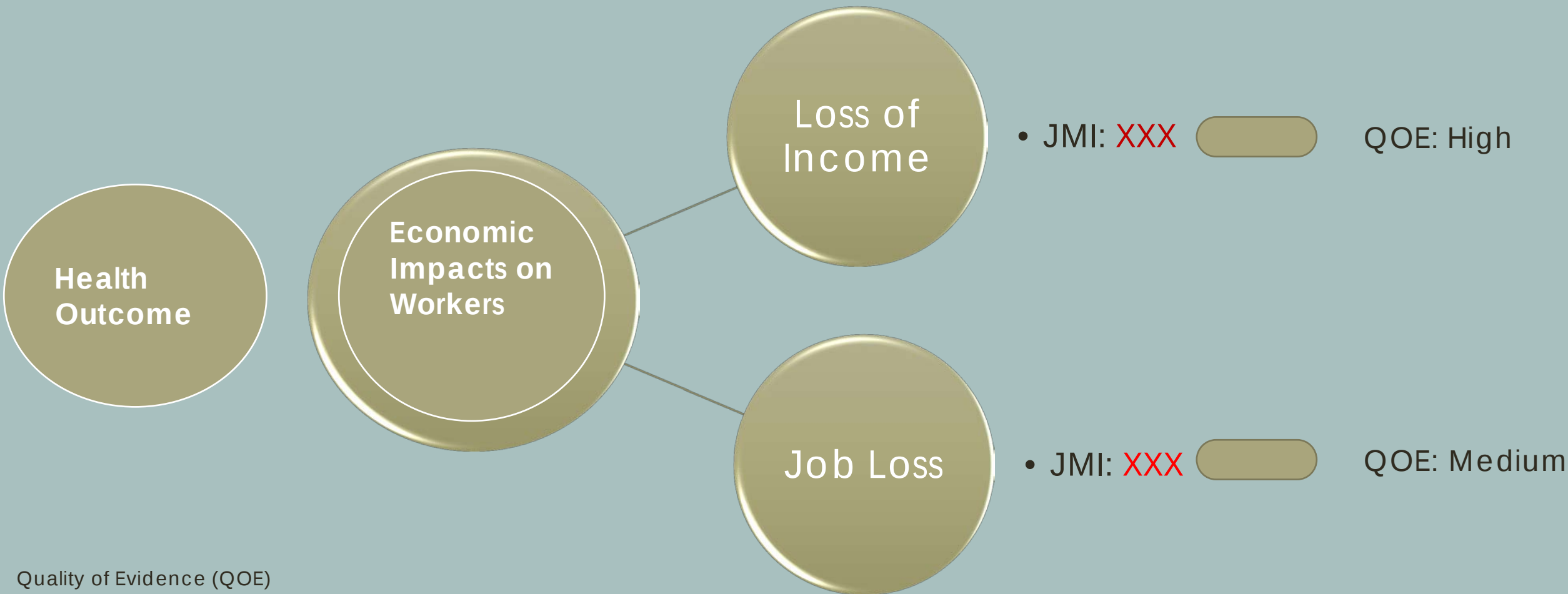


Quality Of Evidence (QOE)

Adapted from Human Impact Partners: "A Health Impact Assessments of Paid Sick Days in Maine (Nov. 16, 2009), New Jersey (April 2011), California (July 30, 2008); Summary Findings. www.humanimpactorg/PSD

Impact: X-Low; XXX-Significant Impact

Health Outcomes and Judgement of Magnitude of Impacts (JMI)

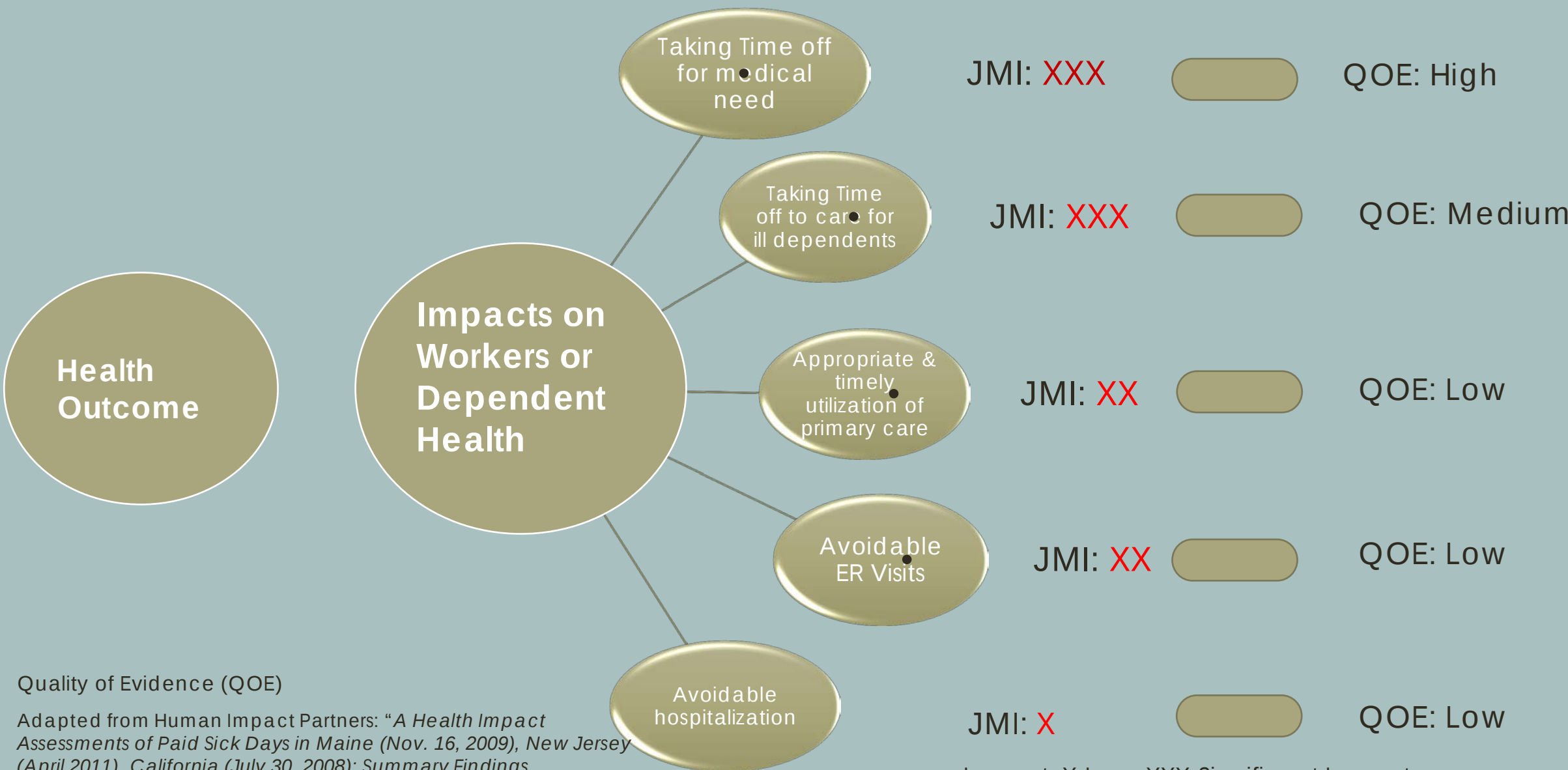


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Mandatory Paid Sick Days (PSD/PSL) / Leave Ordinance: Public Health Perspectives

Topic: Mandatory Paid Sick Leave Ordinance

Big Influencing Issues: ■ Issues facing workers today - ■

1. Paid Sick Days 2. Paid Family and Medical Leave. 3. Workplace Flexibility. 4. Child Care. 5. Wage Gap.

Public Health and Job Benefits

1. Families do better, communities are healthier & businesses thrive.
2. Job & business growth + positive outcomes in worker's productivity & retention
3. 70% Employers did not experience any administrative burden or difficulty implementing policy and 70% supported the law (NY 80% supports the law).
4. Significant decreases in Flu rates in States where there were paid leave ordinances ---> For example, during 2009 H1N1 outbreak
5. Decrease ER visits ---> Decrease 1.3 million ER visits/yr. Saves \$1.1B annually in public-private health insurance costs.
6. Workforce and families dynamics: Indeed, our population continues to rapidly age, more & more workers are finding themselves providing elder care to their aging parents as well.

States with Mandatory Paid Sick Days: Connecticut, Washington DC, California, Arizona, New Jersey, Oregon

Cities with Paid Sick Leaves: San Francisco, Seattle, Milwaukee, NYC, Philadelphia,

Paid Sick Days Ordinance: Public Health Effects/Benefits and Research Assessment Results

Literature Review Findings and Compilations

<u>Individuals/Families</u>	<u>Employers</u>	<u>Public Health</u>	<u>Communities/ Systems/ Economies</u>	<u>Research Finds Benefits of Existing PSDs Laws and Minimal Costs to Employers</u>
Employees no longer have to choose between going to work sick and foregoing pay. Paid attention to caring for families. Elder care, Child and dependent care.	Businesses profit from healthier employees and lower turnover. Contention: Business grps contend that it will force them to raise prices and consider reducing employees' hrs or other benefits.	Increased use of preventive care: 2012 study using 2008 NHIS data finds workers with PSDs are more likely to have mammograms, Pap tests, and endoscopy, & to have seen a doctor during the previous year than those without the benefit.	Healthy productive communities. Security for job placement and enhanced economy. PSDs bring economic benefits for workers, families, and communities.	Minimal Costs: Costs of providing PSD/L modest. Seattle - In 2013 Seattle, about 0.4% of total firm revenue for the year. Connecticut- No increased overall cost & few reported <2% increased. San Francisco - PSL Ordinance, additional costs for rel. small share of employers. 6/7 employers reported no adverse effects on profitability.
Most affected (by no-paid sick leave) and reactions: Employees of small businesses, service industries, hospitality businesses, and per-diem workers. Low-wage workers, etc.	Reduce contagion in the workplace: PSDs reduces workplace influenza infection in US by 6%.	More timely treatment for illnesses: 2016 analysis of 2013 NHIS indicates workers without PSD/leave are 3x more likely to forgo medical care for themselves, & 1.6 xmore likely to forgo medical care for their families, compared with workers who have the benefit.	Improved employment and earnings stability: 2010 poll, 16% of workers surveyed reported losing a job for missing work when they were sick or to care for an ill family member. Research showed tha having PSD reduces likelihood of a job separation by at least 25%.	Ease of implementation: PSDs have minimal effect on business operations. San Francisco - Most employers reported no difficulty. Seattle. Not very difficult & 70% expressed support for the policy. Connecticut (2013) - indicated law didn't burden business operations.

Improved Family health: 2012 study analysing 2008 National Study of the Changing Workforce (NSCW) finds that having PSDs is associated with reduced work-family conflict, which lessens difficulties parents face in taking time off from work to care for a sick child.	Improved productivity: 2003 study - 28,000 workers reported on ave., workers lose 1.32 hrs/wk of productive time due to personal health related reasons. 1997 study - 332 workers with influenza-like illnesses reported 46% less effective while at work.	Improved family health: 2010 National Opinion Research Center Survey found that 28% of workers without PSDs reported sending a sick child to school or child care, compared with 14% with PSD.	Improved labor force attachment among caregivers: one 2011 Gallup poll found, most caregivers, reported missing at least 1 full day of work to fulfill their caregiving duties with an ave. of 6.6 workdays missed per year. PSDs, may provide sufficient leave to caregivers to allow them maintain desired level of job & continue to perform their caregiving work.	Employees use PSDs judiciously: An IWPR survey of 1,194 workers found that employees in SF used fewer than half of sick days avail. Under the PSD ordinance. In regions with PSD laws, surveys suggest that abuse of PSD is rare. Connecticut - 228 employers surveyed by CEPR, 86% reported no know cases of abuse more than a yr after PSD was implemented. Seattle - City auditor published report find that >9 in 10 Seattle employers surveyed in 2012 had never reprimanded an employee for abusing PSDs.
	Decreased workplace injuries: 2012 study (2005-2998 NHIS) - found workers with access to PSDs are 28% less likely to be injured on the job than workers without this benefit.	Prevent spreading illness at work. Enable people to comply with PH advice for controlling seasonal influenza/Flu pandemic.	Savings from reduced utilization of hospital emergency departmentss and a lower monetary burden on taxpayers: 2011 study (using 2008 & 2009 NHIS) finds that annual # of ER visits per worker without PSDs is gtr than it is for those with the benefit. Using MEPS data on cost of ER visits, study estimates that a lack of PSDs resulted in an estimated 1.3 million preventable ED visits every year in US in 2008, costing \$1.1B more than office visits would have. Part of these costs- \$500M- were paid by public insurance programs such as Medicaid.	Sustained job growth & employment: Seattle & SF saw positive job growth in the period after their laws took effect. SF's growth in employment exceeded ave. employment growth of surrounding countiesafter the PSD law was passed. Seattle - Saw sustained job growth and reduced unemployment rates after paasge of the PSD ordinance.
	Decreased employee turnover: 2012 data analysis (2004-2006 through MEPS) - finds likelehood of job separation decreases by 25% when a worker has access to PSD. Employee turnover costs an employer btw 10-30% of an employee's annual salary, a reduction in turnover can result in reductions in employer costs.	Ill restaurants workers would be less likely to spread foodborne disease in restaurants		Improved employee morale, motivation, loyalty, and productivity: Connecticut - >25% of employers reported improved morale, 12.5 % reported increased employee motivation, 10.6% reported increased loyalty, & 14.9% reported increased productivity after implementation of State's PSD law.
	Employers react to such regulations to avoid mandates, e.g. with ACA, as businesses convert some employees into part timers or try to consolidate their workforce.	Reduce income loss and threat of job loss for low-income workers during periods of illness. This effect would be sizable enough to prevent hunger and housing insecurity.		Improved work life balance for employees: 2010 IWPR survey - 1 of 4 SF employees reported that PSD enabled them to better care for their own & their families' health needs. Also, 30% reported that employers were more supportive when needed to use their leave than they wereprior to law's passage. >50% of all SF workers reported at least 1 benefit due to the ordinance.

		Reduce likelihood of GIT disease ("stomach Flu") outbreak in nursing homes. Reduce ER visits: in 2006, 17% (105,000) of all ER visits in ME were entirely preventable. 1.5% (15,000) of all hospitalizations for chr. Dx. Asthma, HBP, & DM in 2006 were preventable.		Reduced flu contagion in locations with PSD laws: A result study used Google Flu data (2003-2015) to show that influenza-like infection rates decrease significantly when workers gain access to paid sick days. Comparing rates of influenza-like illnesses in region with PSD policies - DC, Connecticut, California, Massachusetts, and Oregon - with those lacking such laws, the study finds infection rates decrease by about 10% when employees without coverage obtain PSD.
An Act Ensuring Paid sick Time - Summary of Health Outcomes and Impacts - PLEASE SEE ACCOMPANIED POWER POINT SLIDES				
Health Outcome	Judgement of Magnitude of Impact (X - XXX)	Quality of Evidence (High, Medium, Low)		
Conclusion: Literature spanning the fields of public health, economics, sociology, medicine, social works, and public policy converge to reflect the health, employment, and economic benefits of PSDs. Research suggests that more widespread implementation of PSD policies would have a substantial positive impact on the well-being of children, families, and communities across the United States.				

References:

1. Jessica M., Jenny X., and Jisun M. (July 2016). Paid Sick Days Benefit Employers, Workers, and the Economy. Institute for Women's Policy Research. Briefing Paper - IWPR #B361. www.iwpr.org

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Developed by Kolawole Bankole. Draft 10/31/17

Letter to the editor: Paid sick leave for all would keep everyone healthy

📄 www.pressherald.com/2017/11/06/letter-to-the-editor-paid-sick-leave-for-all-would-keep-everyone-healthy/

We're all connected, living in a city. Nothing brings that home more than the start of cold and flu season.

Those of us who have paid sick time at our jobs take for granted that we can afford to go to the doctor for preventive care, or stay home when we're contagious.

Today's Letters

- Letter to the editor: Age, property not valid council criteria
- Letter to the editor: City should be able to afford to direct traffic at any time
- Letter to the editor: Let president set example by releasing his tax records
- Letter to the editor: All local candidates worthy of gratitude for involvement

But very few workers in the restaurant, retail and hospitality fields – the industries our booming city depends on – have access to that basic right.

They have to decide between losing a paycheck or even their job, and taking time off for their health. It's a cruel choice, and it's even harder on the children who go to school sick because a parent can't take time off to watch them at home.

With thousands of Portland workers making these lose-lose decisions, the public health consequences are obvious. Last summer, an outbreak of norovirus in Virginia was traced to a Chipotle employee whose manager had denied them sick leave. It's easy to imagine that happening here.

It's not only our consciences that are affected by each other's misfortunes. When you get sick, I'm likelier to get sick, too.

I urge the Portland City Council to adopt the earned paid sick-time ordinance introduced last month. Universal paid sick leave – for all workers, including the many employed in multiple part-time jobs and in small businesses – keeps us all healthy.

Anna Kellar

Portland

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Healthy Workers Keep Portland Healthy

Universal Earned Paid Sick Days

Earned paid sick days improve public health, increase worker productivity & employee retention, and provide an economic safety net for low-wage workers. A universal paid sick days ordinance in Portland is a win for everyone, and a reflection of Portland's human rights values.

Justice for Working Families:

Low wage workers struggling to make ends meet face an impossible choice: lose the pay they need to meet basic needs, or go to work sick. This ordinance supports workers to make the best choices for themselves and their families when someone has medical needs.

All Workers In:

Everyone should have the ability to take time off from work to recover from an illness, access preventative care, or care for a sick loved one. We can't leave workers behind because of the size of business they work for. This ordinance will work for all of Portland's workers.

Protect Public Health:

Studies show that providing paid time off for workers improves public health because workers are not coming to work when they are sick or sending their children to school when they are sick. This is an issue that impacts all of us!

Race & Gender Equity:

Women, people of color, and immigrants are more likely to have to work when they're sick, or their loved ones are sick. This ordinance will provide a stronger safety net for the workers who need it most.

Southern Maine
Workers' Center
www.maineworkers.org
207-200-7692
Work With Dignity
Organizer:
Erin Hennessey
erin@maineworkers.org

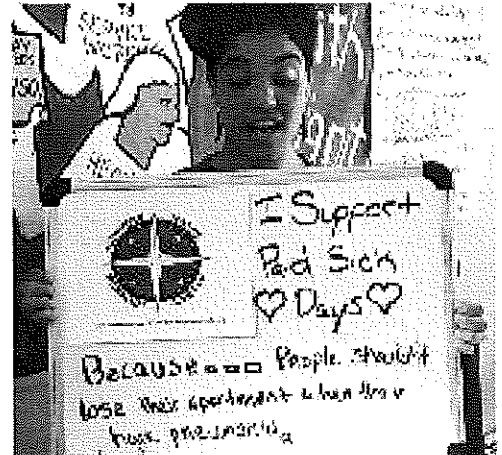


Maine Women's Lobby
www.mainewomen.org
207-622-0851
Organizer:
Jen Sorkin
jsorkin@mainewomen.org

The People Behind the Policy:

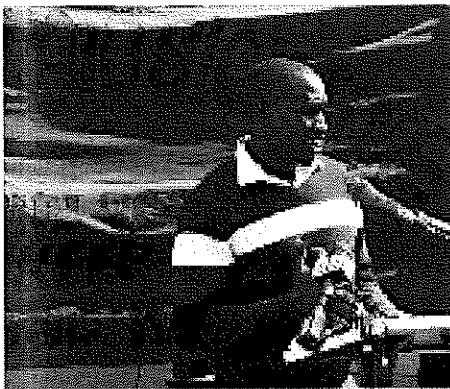
Personal stories for why we need universal earned paid sick days

When I was 16 my mom, who worked as a chef, got pneumonia. She took a little time off, but couldn't afford to take enough time to get better. She coughed so hard she passed out on 3 separate occasions. She had to take off more time to go to the doctor and found out that her pneumonia had spread to her other lung. She had no other options she had to stay home from work and, subsequently, she was fired. This was the beginning of a chain of events that ended with us losing our apartment. Paid sick days is critical for low wage workers like my mom to be able to live and work with dignity. The people who make your food deserve to be able to care for themselves and their loved ones when they are sick. I can't imagine how my life would be different if this had been something that my mom had access to when I was young. -Erin Hennessey, Organizer, Southern Maine Workers' Center



When I used to work as a hospital nurse we were all forced to work while sick. One day, while starting an IV, my runny nose, from a fresh cold, unexpectedly dripped onto the patient's arm! I was mortified. I had to disinfect the arm and start over. -Melanie, Portland, Member, MomsRising

If my children get sick I have to bring them to daycare anyway. I cannot miss work without the threat of losing my job. I need to work to pay my bills. -Victoria, Portland, Member, MomsRising



The harsh reality for many immigrant families in Portland is that they are stuck at work, even when they are sick or when a family member who requires their attention and care is sick. Last school year my nephew got sick at school; they called my sister to go get him, but she couldn't afford to leave work and be home with him for the rest of the day. Her husband was in the exact same situation. It was fortunate that I was available on that day. I would like to see a day when my sister or her husband can come home when sick or when their child is sick at school-- without having to lose pay at work. This is a critical need for many families in Portland. -John Ochira, Vice Chair of the South Sudanese Community Association of Maine

As an educator in the Portland school district I see how hard it can be on my students when their parents don't have paid sick time. I had a fourth grader, crying in my classroom, because she had a headache. The nurse told me that she also had a fever. I asked her to call her mom so she could go home, and she said that her mom needed to go to work

because they needed the money to pay rent. Without paid sick time, workers need to send their sick children to school which is bad for the sick student and bad for the students they share a classroom with. Parents should not have to face the impossible situation of choosing between a paycheck or keeping their sick child home. -Ina Demers, Board Member, Southern Maine Workers' Center





Supporters of Universal Earned Paid Sick Time Ordinance

The Southern Maine Workers' Center: maineworkers.org • Maine Women's Lobby: maine.org

Endorsing Organizations

Homeless Voices for Justice
Portland

Maine AFL-CIO
www.maineaflcio.org
Statewide

Maine State Nurses Association
www.nationalnursesunited.org/nnoc/maine
Statewide

Portland Outright
www.portlandoutright.com
Portland

Somali Community Center of Maine
www.facebook.com/somalicentermaine
Portland

South Sudanese Community
Association
www.facebook.com/SSCofMaine
Portland

Southern Maine Democratic Socialists of America
www.southernmainedsa.org
Southern Maine

Southern Maine Labor Council
www.somelc.org
Southern Maine

Supportive Businesses

Aura
Nightclub
www.auramaine.com
121 Center Street, Portland

American Roots
Fleece clothing manufacturing
www.americanrootswear.com
17 Westfield St., Portland

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Noodle Shop and Restaurant
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57 Washington Ave, Portland

Coffee by Design
Coffee roaster & coffee shops
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104 Washington Ave, Portland

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646 Congress St, Portland, ME 04101

Tandem Coffee Shop
Coffee Shop and Bakery
www.tandemcoffee.com
742 Congress St, Portland, ME 04102

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Coworking Facility
www.thinktankcoworking.com
533 Congress St, Portland 04101

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RESOURCES

Association of Paid Sick Leave Laws With Foodborne Illness Rates

2017 | *American Journal of Preventive Medicine*

Introduction

Previous studies suggest an association between paid sick leave (PSL) and better population health, including fewer infectious and nosocomial gastrointestinal disease outbreaks. Yet few studies examine whether laws requiring employers to offer PSL demonstrate a similar association. This mixed-methods study examined whether laws requiring employers to provide PSL are associated with decreased foodborne illness rates, particularly laws that are more supportive of employees taking leave.

Methods

The four earliest PSL laws were classified by whether they were more or less supportive of employees taking leave. Jurisdictions with PSL were matched to comparison jurisdictions by population size and density. Using difference-in-differences, monthly foodborne illness rates (2000–2014) in implementation and comparison jurisdictions before and after the laws were effective were compared, stratifying by how supportive the laws were of employees taking leave, and then by disease. The empirical analysis was conducted from 2015–2017.

Results

Foodborne illness rates declined after implementation of the PSL law in jurisdictions with laws more supportive of employees taking leave, but increased in jurisdictions with laws that are less supportive. In adjusted analyses, PSL laws that were more supportive of employees taking sick leave were associated with an adjusted 22% decrease in foodborne illness rates ($p < 0.005$). These results are driven by campylobacteriosis.

Conclusions

Although the results suggest an association between more supportive PSL laws and decreased foodborne illness rates, they should be interpreted cautiously because the trend is driven by campylobacteriosis, which has low person-to-person transmission.

Read the study.

AUTHORS:

Study authors: Charleen Hsuan, JD, PhD, Kat DeBurgh, MPH, Dawn M. Jacobson, MD, MPH, [Suzanne Ryan-Ibarra](#)

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Insult to injury: US workers without paid sick leave suffer from mental distress

Study first to explore link between psychological distress and paid sick leave

Date: September 15, 2017

Source: Florida Atlantic University

Summary: Only seven states in the US have mandatory paid sick leave laws, yet, 15 states have passed preemptive legislation prohibiting localities from passing sick leave. Paid sick leave is gaining momentum as a social justice issue with important implications for health and wellness. But what are the implications for the mental well-being of Americans without paid sick leave? A new study is the first to show the link between mental distress and paid sick leave among US workers.

FULL STORY

Only seven states in the United States have mandatory paid sick leave laws; yet, 15 states have passed preemptive legislation prohibiting localities from passing sick leave. Despite this resistance, paid sick leave is starting to gain momentum as a social justice issue with important implications for health and wellness. But what are the implications for the mental well-being of Americans without paid sick leave? Little was known about their relationship until now.

Researchers from Florida Atlantic University and Cleveland State University are the first to explore the link between psychological distress and paid sick leave among U.S. workers ages 18-64. Results of their study, published in the *American Journal of Orthopsychiatry*, illuminate the effects of exacerbated stress on Americans without paid sick leave who are unable to care for themselves or their loved ones without fear of losing wages or their jobs.

The researchers found that workers without paid sick leave benefits reported a statistically significant higher level of psychological distress. They also are 1.45 times more likely to report that their distress symptoms interfere "a lot" with their daily life and activities compared to workers with paid sick leave. Those most vulnerable: young, Hispanic, low-income and poorly educated populations.

"Given the disproportionate access to paid sick leave based on race, ethnicity and income status, coupled with its relationship to health and mental health, paid sick leave must be viewed as a health disparity as well as a social justice issue," said LeaAnne DeRigne, Ph.D., co-author of the study and an associate professor in the Phyllis and Harvey Sandler School of Social Work within FAU's College for Design and Social Inquiry. "Even modest increases in psychological distress are noteworthy for both researchers and policy makers since we know that even small increases in stress can impact health."

The study included 17,897 respondents from the National Health Interview Survey (NHIS), administered by the U.S. government since 1957 to examine a nationally representative sample of U.S. households about health and sociodemographic variables.

"For many Americans, daily life itself can be a source of stress as they struggle to manage numerous responsibilities including health related issues," said Patricia Stoddard-Dare, Ph.D., lead author of the study and associate professor of social work at Cleveland State University. "Making matters worse, for those who lack paid sick leave, a day away from work can mean lost wages or even fear of losing one's job. These stressors combined with other sources of stress have the potential to interfere with workplace performance and impact overall mental health."

The researchers used the Kessler Psychological Distress Scale (K6), considered the gold standard for assessing psychological distress in population-based samples in the U.S. and internationally. With a theoretical range of 0 to 24, higher scores on the K6 represent increased psychological distress and scores above 13 are correlated with having a mental disorder of some type.

Results from the study showed that those with paid sick leave had a lower mean distress score compared to those without paid sick leave, who had significantly higher K6 scores, indicating a higher level of psychological distress. Only 1.4 percent of those with paid sick leave had a K6 score above 12 compared to 3.1 percent of the respondents without paid sick leave.

The most significant control variables indicated an increase in the expected psychological distress score among those who were younger, female, in fair or poor personal health, had at least one chronic health condition, were current smokers or did not average the recommended range of seven to nine hours of sleep per day.

Approximately 40 percent of respondents in the NHIS sample did not have paid sick leave; approximately half of the respondents were female; more than half were married or cohabitating; three-quarters indicated that their highest level of education included at least some college; and 62 percent were non-Hispanic white. The mean age was 41.2 years. Most of the respondents (79.1 percent) worked full-time and 82.7 percent had health insurance coverage. Respondents were in families with a mean size of 2.6 persons and 39.3 percent reported having children in the family. Approximately 32 percent had an annual family income of \$35,000 to \$50,000, and more than one quarter were below the poverty threshold.

DeRigne and Stoddard-Dare caution that even though there is concern about the potential burden on employers if paid sick leave laws are passed, it is important to be mindful of the overall situation regarding productivity loss and workplace costs associated with mental health symptoms and psychological concerns among U.S. workers. Furthermore, the personal health care consequences of delaying or forgoing needed medical care can lead to more complicated and expensive health conditions. U.S. workers with paid sick leave are more likely to take time off work and self-quarantine when necessary, without the worries of losing their job or income while also not spreading illness to others.

"Results from our research will help employers as they think about strategies to reduce psychological stress in their employees such as implementing or expanding access to paid sick days," said Stoddard-Dare. "Clinicians also can use these findings to help their patients and clients as can legislators who are actively evaluating the value of mandating paid sick leave."

Story Source:

Materials provided by **Florida Atlantic University**

. Note: Content may be edited for style and length.

Journal Reference:

1. Patricia Stoddard-Dare, LeaAnne DeRigne, Cyleste C. Collins, Linda M. Quinn, Kimberly Fuller. **Paid Sick Leave and Psychological Distress: An Analysis of U.S. Workers..** *American Journal of Orthopsychiatry*, 2017; DOI: 10.1037/ort0000293

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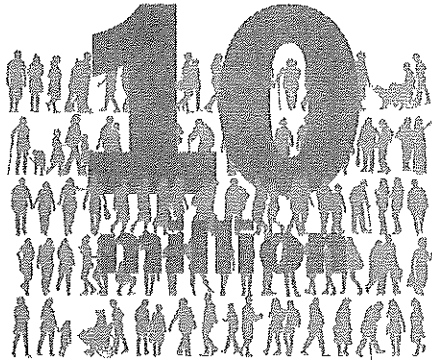


5 Facts About Chosen Family

Families in the United States come in many forms but all too often public policy fails to adequately recognize and support the needs of all families. In recent years cities and states have taken action to rectify policy shortcomings by providing the legal right to sick time that covers not just people related by blood or legal ties but also chosen family.

Chosen families form when two or more individuals form a close, family-like relationship. Such families might be long-term partners, friends who have become like siblings, or a neighbor who provides regular care to an elderly individual. By recognizing the critical role chosen family plays in caregiving and support, policy makers are taking essential steps forward to ensure that all families thrive.

FACT 1:

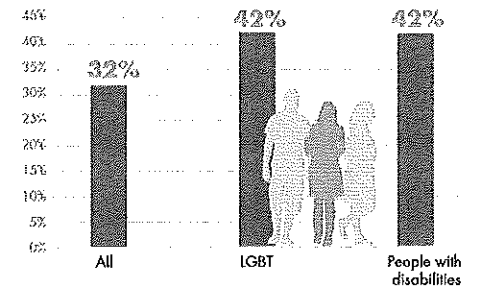


State and local victories since the last half of 2016 will provide **more than 10 million people** the legal right to sick time with a family definition that includes chosen family.¹

¹For information regarding people covered by sick leave policies in Arizona, Chicago/Cook County, Los Angeles, and Saint Paul, MN, see Maria Bowman and others, "Making Paid Leave Work for Every Family" (Washington: Center for American Progress, A Better Balance, Family Values @ Work, and Forward Together, 2016), available at <https://www.americanprogress.org/issues/family/reports/2016/12/01/20161201makingpaidleaveworkforeveryfamily/>. Estimates for New York City's sick time law based on Shira Geis, "NYC's Paid Sick Leave Law: First Year Milestones" (New York City: Department of Consumer Affairs, 2015), available at <https://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeaveLawFirstYearMilestones.pdf> for employment growth and the federal workforce. Estimates for Rhode Island's sick time for non-government workers based on July 2017 data from Bureau of Labor Statistics, Rhode Island, available at https://www.bls.gov/regional/economicbrief/ri/ri_economicbrief_jul17.pdf.

FACT 2:

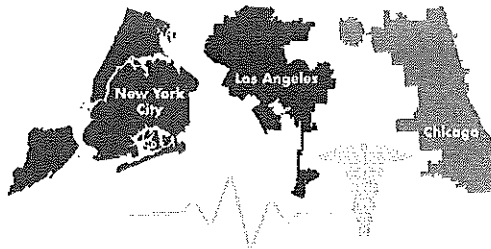
Share of people who have taken time off of work to care for a chosen family member's health-related needs



Nearly **one-third of people** in the United States report having taken time off of work to care for a friend or chosen family member for a health-related reason—and figures are significantly higher for LGBT individuals and people with disabilities.²

²Katherine Gallagher Robb and others, "People Need Paid Leave Policies That Cover Chosen Family" (Washington: Center for American Progress 2017), available at <https://www.americanprogress.org/issues/health/reports/2017/10/30/441392/people-need-paid-leave-policies-that-cover-chosen-family/>.

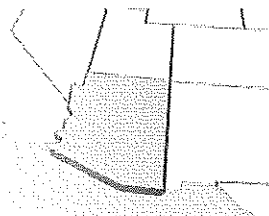
FACT 3:



The **three largest cities** in the U.S.—New York, Los Angeles, and Chicago—have all passed paid sick time laws that provide workers with the legal right to care for their chosen family.

FACT 5:

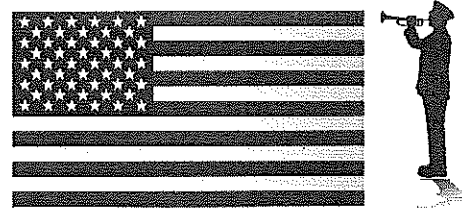
**1.5
MILLION**



Nearly **1.5 million Arizonans** vote in favor of a 2016 ballot measure that guarantees paid sick time with a family definition that includes chosen family.

Arizona Secretary of State, Ballot Measure Results for Proposition 205, available at <http://results.azsos.gov/2016/General/1591/ResultsState.htm#0>.

FACT 4:



1969: The first time the federal government uses an inclusive family definition, permitting employees to take funeral leave for chosen family who died while serving in the armed forces in a combat zone.

Maria Bowman and others, "Making Paid Leave Work for Every Family" (Washington: Center for American Progress, A Better Balance, Family Values @ Work, and Forward Together, 2016).

For More Information:

A Better Balance
www.abetterbalance.org

Family Values @ Work
www.familyvaluesatwork.org

Center for American Progress
www.americanprogress.org



TAKING CARE OF BUSINESS

The Business Benefits of Paid Leave

Updated March 2011

Businesses benefit when employees are able to take time away from work to cope with personal and family illnesses. More satisfied and productive workers translate into improved workplace morale, greater worker loyalty and better bottom lines. Many leading business owners and managers understand these benefits and have implemented effective family-friendly policies that allow workers time away from work for basic personal and medical needs. Public policies that complement their practices and establish minimum standards for leave will allow workers and businesses to deal with the realities of the twenty-first century workplace.

Paid Sick Days: Ensuring a Productive Workplace

Everyone gets sick. When workers have access to paid sick days to use for their own and family members' illnesses, they recover faster, are more productive, and obtain timely medical care, thus holding down health care costs. This is a tremendous benefit to businesses. **Yet nearly two in five private-sector workers lack paid sick days. In smaller businesses, 47 percent lack paid sick days.**¹

Paid Sick Days Reduce Worker Presenteeism and Promote Retention

Paid sick days can help businesses by decreasing presenteeism, turnover and the spread of disease.² Workers with paid sick days are more likely to stay home when they are ill, reducing the spread of illness to co-workers and customers. **Paid sick days also reduce “presenteeism”—the productivity lost when workers come to work sick. Lost productivity due to illness has been estimated to cost \$180 billion annually.**³

By providing paid sick days, businesses also benefit from increased worker loyalty and reduced turnover. This is particularly important in low-wage industries where turnover is often high. The director of operations and development at a small New York City restaurant recently estimated at a Congressional briefing that turnover costs in the restaurant industry total about \$1,000 per employee. She noted that because her business offers paid sick days and other good benefits, their turnover rate is only 30 percent annually — compared to an industry standard of 200 percent.

Paid Sick Days Reduce the Spread of Disease and Lower Health Care Costs

Employees who work sick endanger business profits. During three months of the H1N1 flu pandemic in 2009, 8 million workers went to work sick and may have infected 7 million of their co-workers. Lack of paid sick days may have prolonged the pandemic.⁴

Workers today are more likely than ever to be caregivers.

- In nearly two-thirds of families with children, all adults in the household work.
- Nearly one in five adults provides unpaid care to an elderly family member or friend.
- The number of workers with elder care responsibilities is anticipated to grow dramatically in the next two decades.

The risks of contagion — and the resulting costs — are highest in workplaces where workers regularly deal with the public. These are often the industries in which workers are least likely to have paid sick days. In the restaurant industry, nearly two-thirds of servers and cooks report that they have served or cooked while ill.⁵ Sick workers can create serious public health risks and lead to high costs. When a food service worker at a Chipotle restaurant in Kent, Ohio, came to work with a stomach virus because he had no paid sick days, he infected 500 people who became violently ill. The incident cost customers and the community hundreds of thousands of dollars — and caused reputational harm to the restaurant.⁶

"I understand the public health risks created when workers have no paid sick days. I don't want to serve food that could make my customers sick. If any of my employees is sick, it is better for him, my customers, and everybody if he stays home."

— Julio Hernandez, food truck owner, New York City

Lack of paid sick days drives up health care costs for businesses and the public: **Workers without paid sick days are more than twice as likely as those with paid sick days to seek emergency room care because they are unable to take time off during normal work hours.** Parents without paid sick days are five times more likely to seek emergency room care for their children or other relatives.⁷ Lack of paid sick days may also make workers less likely to seek preventive care.⁸

A Paid Sick Days Standard Will Level the Playing Field by Making a Minimal Number of Paid Sick Days the Norm for All Businesses

Although model employers — small and large — are already offering paid sick days to employees at all wage levels, a standard would provide all workers a minimum amount of sick time. A standard would level the

"The U.S. Women's Chamber of Commerce supports a minimum standard for paid sick days. Healthy businesses need healthy workers, which is precisely what paid sick days accomplish. Paid sick days are an investment in our families, our workforce, and our health that we cannot afford to do without."

— Margot Dorfman, CEO, Women's Chamber of Commerce

playing field, making paid sick days a normal business practice on par with other widely accepted minimum labor standards. **Policy proposals would allow businesses the flexibility to continue to offer more generous benefits. Those businesses that already provide basic paid sick days protection would not need to change their practices.** Indeed, this was the case for most San Francisco employers after the city implemented a paid sick days law.⁹

Cargo Coffee and Ground Zero coffee shops in Madison, Wisconsin, offer paid sick days to all 24 of their employees. After these small establishments began offering paid sick days, productivity increased among

staff, while the spread of illness among employees decreased. Lindsey Lee, the owner of the coffee shops, believes that his "business would benefit from a national standard of paid sick days because it would level the playing field among competitors who don't currently offer paid sick days to their employees."

Experience With Paid Sick Days Laws Shows That They Work for Businesses and Workers

Since San Francisco's paid sick days law went into effect in 2007, job growth has been consistently higher in San Francisco than in neighboring counties that lack a paid sick days law. The number of businesses — small and large — has grown more rapidly in San Francisco than in neighboring counties. This holds true even for businesses most impacted by the new law: retail and food service establishments.¹⁰ The executive director of the Golden Gate Restaurant Association has said that "paid sick days is the best public policy for the least cost," adding, "Do you want your server coughing over your food?"¹¹ Two-thirds of San Francisco businesses now say they support the law.¹²

"I think my company has worked [the paid sick days law] out pretty well... People are using it as it was meant to be used. You're sick or you have the flu, you take time off, and you get paid."

— Jean Eddy, President, The People Connection (temp agency), San Francisco

Paid Family and Medical Leave: Retaining Valuable Workers

Nearly all workers at some point will need to take leave from their job to deal with a serious illness or care for a new child. Paid family and medical leave allows them to meet these needs.

Business owners often say that offering paid family and medical leave promotes family values, generates good will with their employees, and is the compassionate and caring thing to do. **Yet only 10 percent of private-sector workers have access to paid family leave through their employer, and fewer than 40 percent have access to personal medical leave through short-term disability insurance.**¹³ Leave under the Family and Medical Leave Act (FMLA) is available to fewer than 50 percent of workers.¹⁴ Moreover, because the FMLA provides only unpaid leave, many cannot afford to take it.

Nationwide or statewide paid family and medical leave — offered, for example, through an insurance system funded by employee and employer contributions — would allow workers to take a limited number of weeks away from work with pay. Paid leave insurance systems are already working well in California and New Jersey, where businesses see benefits in employee retention, morale and productivity.

Paid Family and Medical Leave Promotes Retention and Reduces Turnover

Worker turnover declines and loyalty increases when workers are able to use paid leave to address serious personal or family illnesses or to care for a new child.

Even the security provided by job-protected unpaid leave promotes worker retention.

Ninety-eight percent of employees who took leave under the FMLA returned to work for the same employer.

California's paid family leave program has increased retention among workers in lower-wage jobs by 10 percent.¹⁵ Nationally, first-time mothers who have access to paid maternity leave are more likely to return to work after the birth of their child.¹⁶

In contrast, businesses that do not provide employees with paid family and medical leave or job-protected unpaid leave must frequently absorb turnover costs. **Replacing a worker is expensive: turnover costs are estimated to be**

anywhere from 25 to 200 percent of annual compensation.¹⁷ These costs include not only direct expenses like recruiting, interviewing, hiring, training and supervising, but also indirect costs like lost sales resulting from consumer dissatisfaction, new employee errors, and reduced morale of employees charged with training new hires.

A Paid Family and Medical Leave Insurance System Helps Smaller Businesses Compete

Paid family and medical leave is offered by only a small number of businesses — and smaller businesses are even less likely than larger businesses to offer such leave. **A paid leave insurance system would help small businesses retain valued workers and compete with larger employers by spreading the cost. A public program would make paid leave available to workers in smaller businesses that might have difficulty providing it on their own.**¹⁸ Indeed, the existing statewide paid family leave programs in California and New Jersey are funded solely through employee contributions, so businesses do not bear any direct costs.

Existing Laws Prove That These Policies Work for Businesses and Workers

In addition to the FMLA, which has been used over 100 million times to provide unpaid leave to workers, **family leave insurance programs in California and New Jersey provide workers with a share of their wages for up to six weeks while they care for a family member with a serious health condition or bond with a new child.** An average of 168,000 family leave claims has been authorized annually in California since the program's implementation in 2004. Six in 10 employers report coordinating their own benefits with the California state paid family leave insurance benefit, resulting in cost-savings to those employers.¹⁹ Nearly 26,000 people have been able to take paid family leave in New Jersey since the program's 2009 implementation. These successful programs complement these states' longstanding

temporary disability insurance systems, which provide seriously ill or injured workers with partial wages while they recover or seek treatment.²⁰

Small Employers See Benefits From Paid Leave Insurance

Kelly Conklin, the owner of a New Jersey cabinet-making company, Foley-Waite Associates, said last year at a press briefing: "I believe a worker distracted by a pressing family emergency is not likely to do his or her best work. I'd rather they stay home, with compensation... [That worker is] going to be very anxious to get back to work as soon as possible. **As a state, we [have chosen to] ... enact laws that attract the quality workers small businesses need to succeed.**"

"The demographics of the workforce make it more likely than not that an employee at a small firm will use this benefit.... **[E]mployers can cross-train workers so they're prepared to take over when a co-worker is out.**"

— John Sarno, President, Employers Association of New Jersey

And Rohana Stone Rice, controller and director of human resources at Richmond, California's Galaxy Desserts recently explained: "Many of our production, management, and even sales staff have used paid family leave, primarily to extend bonding time with new babies. We feel it's the right thing to do, and it is in keeping with our core values. **The employees are happier and more loyal to the company when they feel the management of the company cares about them and their families.**"

¹ U.S. Department of Labor, Bureau of Labor Statistics. (2010, March). *Employee Benefits in the United States: Selected paid leave benefits: Access, National Compensation Survey (Table 6)*. Retrieved 9 December 2010, from <http://www.bls.gov/news.release/pdf/ebs2.pdf>. Small businesses are defined here as businesses with fewer than 100 employees.

² Lovell, V. (2005 April). *Valuing Good Health: An Estimate of Cost and Savings for the Healthy Families Act*. Institute for Women's Policy Research Publication. Retrieved 22 March 2011, from <http://www.nationalpartnership.org/site/DocServer/HFACBALovell.pdf?docID=367>

³ AdvancePCS Study Shows Top Health Conditions Cost Employers \$180 Billion in Lost Productive Time. (2002, June 5). *Business Wire HealthWire*. Retrieved 22 March 2011, from http://findarticles.com/p/articles/mi_m0EIN/is_2002_June_5/ai_86738725/

⁴ Institute for Women's Policy Research. (2010, February). *Sick at Work: Infected Employees in the Workplace During the H1N1 Pandemic*. Institute for Women's Policy Research Publication. Retrieved 22 March 2011, from <http://www.iwpr.org/initiatives/family-leave-paid-sick-days/#publications>

⁵ Restaurant Opportunities Centers United. (2010, September 30). *Serving While Sick: High Risks and Low Benefits for the Nation's Restaurant Workforce, and Their Impact on the Consumer*. Restaurant Opportunities Centers United Publication. Retrieved 9 December 2010, from [http://www.rocunited.org/files/roc_servingwhilesick_v06%20\(1\).pdf](http://www.rocunited.org/files/roc_servingwhilesick_v06%20(1).pdf)

⁶ Hirsh, A. (2008, August). *Outbreak in Ohio: Cost of the 2008 Norovirus Incident in Kent*. Policy Matters Ohio Publication. Retrieved 7 January 2011, from <http://www.policymattersohio.org/pdf/OutbreakInOhio2008.pdf>

⁷ Smith, T., & Kim, J. (2010, June). *Paid Sick Days: Attitudes and Experiences*. National Opinion Research Center at the University of Chicago for the Public Welfare Foundation Publication. Retrieved 2 December 2010, from <http://www.publicwelfare.org/resources/DocFiles/psd2010final.pdf>

⁸ Human Impact Partners. (2009, June 11). *A Health Impact Assessment of the Healthy Families Act of 2009*. Human Impact Partners Publication. Retrieved 22 March 2011, from http://www.nationalpartnership.org/site/DocServer/WF_PSD_HFA_HealthImpactAssessment_HIA_090611.pdf?docID=5101

⁹ Drago, R., & Lovell, V. (2011, February). *San Francisco's Paid Sick Leave Ordinance: Outcomes for Employers and Employees*. Institute for Women's Policy Research Publication. Retrieved 22 March 2011, from <http://www.iwpr.org/initiatives/family-leave-paid-sick-days/#publications>

¹⁰ Petro, J. (2010). *Paid Sick Days Does Not Harm Business Growth or Job Growth*. Drum Major Institute for Public Policy Publication. Retrieved 22 March 2011, from http://www.drummajorinstitute.org/pdfs/Paid_Sick_Leave_Does_Not_Harm.pdf

¹¹ Warren, J. (2010, June 30). *Cough If You Need Sick Leave*. *BusinessWeek*. Retrieved 22 March 2011, from http://www.businessweek.com/magazine/content/10_24/b4182033783036.htm

¹² See note 9.

¹³ See note 1.

¹⁴ Waldfogel, J. (2001, September). *Family and Medical Leave: Evidence from the 2000 Surveys*. *Monthly Labor Review*, 17-23. Retrieved 14 December 2010, from <http://www.bls.gov/opub/mlr/2001/09/art2full.pdf>

¹⁵ Appelbaum, E., & Milkman, R. (2011, January). *Leaves That Pay: Employers and Worker Experiences with Paid Family Leave in California*. Retrieved 22 March 2011, from <http://www.cepr.net/documents/publications/paid-family-leave-1-2011.pdf>

¹⁶ Boushey, H. (2008). *Family Friendly Policies: Helping Mothers Make Ends Meet*. *Review of Social Economy*, 66(1), 67. Available from <http://ideas.repec.org/a/taf/rsocet/v66y2008i1p51-70.html>

¹⁷ Sasha Corporation. (2007, January). *Compilation of Turnover Cost Studies*. Retrieved 13 December 2010, from <http://www.sashacorp.com/turnframe.html>

¹⁸ Appelbaum, E., & Milkman, R. (2006). *Achieving a Workable Balance: New Jersey Employers' Experiences Managing Employee Leaves and Turnover*. Rutgers University's Center for Women and Work Publication. Retrieved 14 December 2010, from http://www.njtimetocare.com/images/stories/Achieving_Workable_Balance.pdf

¹⁹ See note 15.

²⁰ New York, Rhode Island, and Hawaii also have temporary disability insurance programs to cover ill workers.

The National Partnership for Women & Families is a non-profit, non-partisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family.

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National Partnership for Women & Families
1875 Connecticut Avenue NW, Suite 650 ~ Washington, DC 20009
202.986.2600 ~ 202.986.2539
www.NationalPartnership.org



Frequently Asked Questions - Portland Earned Paid Sick Time Southern Maine Workers' Center & Maine Women's Lobby

1) How does it work?

This is an earned leave benefit that will allow all workers to earn one hour of paid sick leave for every 30 hours worked for up to a total 48 hours (6 days) of paid sick time to be used in a single year. Employers are not required to pay out unused hours at the end of the year. Earned hours are rolled over year to year, however 48 hours is the maximum that an employer would be required to provide in one year.

2) Under what kinds of circumstances can workers take this leave?

Workers can take leave to recover from illness, get preventive care, seek assistance related to domestic violence or sexual assault, or care for a family member in need of medical care. Employers may require up to 5 days notice in situations when the need for taking time off is foreseeable. When the need is not foreseeable employees are required to give as much notice is practical under the circumstances. The ordinance uses an inclusive definition of family similar to the the version recently passed in New York City.¹

3) What will happen to businesses that already provide paid time off?

If a business already has a paid time off policy in place that provides for the same or more days off which can be used for the same purposes as required in this ordinance, their policy need not change, even if they combine paid sick time with other kinds of paid time off.

4) Why is it needed?

Forty one percent of private sector workers in Maine lack paid sick days,² and the portion of low wage workers -- those least able to afford to miss a day's pay -- who don't have access to paid sick days is likely much higher. The consequences for individuals and families can be devastating, including lost jobs, deteriorating health, and greater instability. (See our document: *Earned Paid Sick Time: It's about who and what we value* for more information)

5) Don't workers already have the right to paid time off for medical needs?

No. Neither Maine's Family Medical Leave law nor the federal Family Medical Leave Act provides paid leave for workers who take time off for medical reasons. Maine's Employment Leave for Victims of Violence law similarly does not provide paid leave.

6) How will it improve public health?

Paid sick days makes for good public health policy. At the most basic level, paid sick days can help slow the spread of communicable disease by making it more possible for workers to take time off when they are sick. The Center for Disease Control's recommendations for preventing the spread of the flu include staying home. Earned paid sick time has also been shown to reduce unnecessary Emergency Room visits

¹ Major Victory for New York City's Working Families

<https://www.abetterbalance.org/major-victory-for-new-york-citys-working-families/> , October 17, 2017

² Miller, Kevin and Claudia Williams, "Valuing Good Health in Maine: The Costs and Benefits of Paid Sick Days" January 2010, Institute for Women's Policy Research, p. 2 footnote 1.

and to increase screenings for cancer and other preventative care. (See our document: *Earned Paid Sick Time: It's about who and what we value* for more facts and sources)

7) Has this policy been tried elsewhere?

Yes. Thirty-nine other jurisdictions, including 28 cities, have already passed similar earned paid sick days laws. Research into the experiences of cities and states that were the first to implement paid sick days shows the policies have strong support from business owners, economies that grew after the implementation, less employee turnover, and improved productivity.

8) Can this policy work in a small city like Portland?

Yes. Earned paid sick days laws exist in cities, counties, and states of different sizes all over the country, including eight cities smaller than Portland. East Orange, NJ (pop. 64,270) and Passaic, NJ (pop. 70,635) are both comparably sized to Portland and have earned paid sick days laws.

9) Why does the policy cover businesses of all sizes, rather than just larger ones?

Everyone working in our economy needs to be able to take the time to care for themselves and their family when they're sick, regardless of arbitrary factors like the size of the business they happen to work for. Although small businesses are sometimes left out of worker protection laws, laws such as minimum wage protections cover businesses of any size. We believe that earned paid sick time is in this same category of protections and must cover workers universally. Exempting small businesses would, in a city like Portland which has so many small businesses, leave an unacceptable number of workers out. Furthermore, the public health benefits of a paid sick days policy would be significantly diminished if small businesses were excluded.

Earned Paid Sick Time

It's about who and what we value

Maine Women's Lobby: mainewomen.org •

The Southern Maine Workers' Center: maineworkers.org

Right now, an estimated 26,000 workers in Portland cannot take one paid day off if they're sick. For low-income workers, women, immigrants, and people of color in particular, the consequences can be devastating: we lose jobs, we get sicker, we're less able to take care of ourselves and one another.



Here are some of the reasons we know we can do better.

➤ Paid sick days improve public health

Maine has a problem with non-urgent ER visits, and paid sick days will help. Nationally, about 10% of all emergency room visits are for non-urgent care.¹ But Maine's rate is 17%, meaning 105,000 visits to emergency rooms in Maine are preventable. When workers have access to paid sick days, they will be able to get medical care during regular doctor's office hours rather than delaying treatment until off-hours, when the ER is the only option. Studies back this up: a person with paid sick days is 14% less likely to be a moderate emergency department user (1 to 3 visits per year) and 32% less likely to be repeated ED user (4 or more times per year).² Parents without paid sick days are five times more likely than those with paid sick days to take family member to an emergency room because they cannot take time off during their work day.³

Workers, especially low-income workers, need paid sick days to access to preventative medicine. Low-income Mainers are less likely than high-income Mainers to have been screened for breast, cervical, and colorectal cancer.⁴ One reason is lack of access to paid sick time, which we know thanks to research concluding that workers who can take paid time off for medical care are more likely to have had doctors visits within the past year, as well as

¹ Leah S. Honigman, Jennifer L. Wiler, Sean Rooks, and Adit A. Ginde, National Study of Non-urgent Emergency Department Visits and Associated Resource Utilization, West J Emerg Med., <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3876304/>

² Paid sick leave is associated with fewer ED visits among US private sector working adults. Bhuyan SS, Wang Y, Bhatt J, Dismuke SE, Carlton EL, Gentry D, LaGrange C, Chang CF. Am J Emerg Med, <https://www.ncbi.nlm.nih.gov/pubmed/26851064>

³ National Partnership for Women and Families, Healthy Kids, Healthy Schools: The Case for a National Paid Sick Days Standard.

⁴ Maine Cancer Surveillance Report, 2014, Maine Center for Disease Control and Prevention, DHHS.

mammography, Pap test, and endoscopy at recommended intervals.⁵ Even the American Medical Association says the lack of access to paid sick leave results in the spread of infectious diseases, as well as delayed screenings, diagnosis, and treatment.⁶

➤ **Paid sick days are good for kids**

Kids get sick, and parents need paid sick days to be able to keep them home. Sick children who have to go to school have trouble learning. They also spread illness to other children, and can overburden already stretched school nurses. Nationwide, parents without paid sick days are more than twice as likely as parents with paid sick days to send a sick child to school or day care. Their children are also more likely to get seriously sick if they can't take the time off to access preventative care.⁷ And studies show that sick children recover better when cared for by their parents.⁸

➤ **Restaurant workers need paid sick days**

Restaurant workers, a 2010 study found that 89% of restaurant workers in Maine do not have paid sick days, and 70.8% have worked when sick. Of those, nearly half said they needed to work while sick because they could not afford to take the day off.⁹

➤ **Paid sick days are good for workers and businesses**

Paid sick days means fewer on-the-job injuries, and less worker turnover. One study found that workers were 28% less likely to be injured on the job if they had paid sick days.¹⁰ Paid sick days has also been shown to reduce turnover and improve job stability for workers, reducing the likelihood of job separation by 25%.¹¹

➤ **Small cities like Portland are succeeding with paid sick days**

⁵ Lucy A Peipins, Ashwini Soman, Zahava Berkowitz, and Mary C White, "The lack of paid sick leave as a barrier to cancer screening and medical care-seeking: results from the National Health Interview Survey," BMC Public Health, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3433348/>

⁶ American Medical Association. (June 2016). "AMA Recognizes Public Health Benefits of Paid Sick Leave." <https://www.ama-assn.org/ama-recognizes-public-health-benefits-paid-sick-leave>

⁷ National Partnership for Women and Families, Healthy Kids, Healthy Schools: The Case for a National Paid Sick Days Standard.

⁸ Schuster, M. A., & Chung, P. J. (2014, August). Time Off to Care for a Sick Child—Why Family-Leave Policies Matter. New England Journal of Medicine, 371(6), 493-495.

⁹ Restaurant Opportunity Center of Maine, Restaurant Opportunities Centers United, and the Maine Restaurant Industry Coalition, "Behind the Kitchen Door: Low Road Jobs, High Road Opportunities in Maine's Growing Restaurant Industry," 2010.

¹⁰ Abay Asfaw, Regina Pana-Cryan, and Roger Rosa, Paid Sick Leave and Nonfatal Occupational Injuries, Am J Public Health, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3482022/>

¹¹ Heather D. Hill, Paid Sick Leave and Job Stability, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3825168/>

Paid sick leave is not just a policy for big cities; several cities similar in size to Portland have laws guaranteeing paid sick days to workers. Santa Monica, CA, (pop. 89,736), and East Orange, NJ (pop. 64,270) are just two examples. Thirty-nine other jurisdictions, including **28 cities**, have already passed similar paid sick day laws.

➤ **Policies that include small businesses are succeeding**

In Jersey City, where employers of any size are required to provide paid sick days, 41.8% of employers who had changed their policies due to the law reported at least one of the following: an increase in productivity, an increase in the quality of new hires, and a reduction in turnover. Employers also reported a reduction in the number of sick employees coming to work.

Abuse & Usage of Paid Sick Days

FEBRUARY 8, 2017

Studies of states and cities with paid sick days laws show that employees do not abuse paid sick days:

- **Connecticut:** Eighty-six percent of employers reported no known cases of abuse and 6 percent only reporting one to three cases. Some employers noted in interviews that reports of abuse had not changed since implementation of the paid sick days law.¹
- **Seattle:** Less than 10 percent of employers reported reprimanding any employees for abuse of paid sick days.²
- **Jersey City:** 96.5 percent of employers reported no change in employee use or decreased use of paid sick days, indicating no evidence of abuse of the law.³
- **New York City:** Ninety-eight percent of employers reported no abuse of paid sick days, with abuse essentially nonexistent at businesses with fewer than 50 employees.

National data and studies of state and local paid sick days laws demonstrate that workers see paid sick days as an insurance policy and do not use all of the days they earn:

- **2014 National Health Interview Survey, used in 2016 IWPR Analysis:** “Among those with paid sick days, the median number of sick days used was one, and the mean was 2.1 days. The number of sick days reported throughout this paper are calculated for those who used 11 or fewer days of leave, so that usage numbers would roughly reflect the numbers of days used under a typical sick leave plan or proposal, without inadvertently capturing extended medical leaves. The uncapped average number of days of work missed due to illness or injury is nevertheless quite small (3.7). The data show that only five percent of workers with paid sick days missed 11 or more days of work.”⁴

¹ Appelbaum, E., & Milkman, R. (2014, February 21). *Good for Business? Connecticut's Paid Sick Leave Law*. Center for Economic and Policy Research Publication. Retrieved 8 February 2017, from <http://cepr.net/documents/good-for-buisness-2014-02-21.pdf>

² Romich, J., Bignell, W., Brazg, T., Johnson, C., Mar, C., Morton, J., & Song, C. (2014, April 23). *Implementation and Early Outcomes of the City of Seattle Paid Sick and Safe Time Ordinance*. University of Washington Publication. Retrieved 8 February 2017, from <http://www.seattle.gov/Documents/Departments/CityAuditor/auditreports/PSSTOUWReportwAppendices.pdf>

³ Lindemann, D., & Britton, D. (2015, April). *Earned Sick Days in Jersey City: A Study of Employers and Employees at Year One*. Center for Women and Work at Rutgers, the State University of New Jersey Publication. Retrieved 8 February 2017, from http://smr.rutgers.edu/sites/smr.rutgers.edu/files/documents/Jersey_City_ESD_Issue_Brief.pdf

⁴ Xia, J., Hayes, J., Gault, B. & Nguyen, H. (2016, February). *Paid Sick Days Access and Usage Rates Vary by Race/Ethnicity, Occupation, and Earnings*. Institute for Women's Policy Research Publication. Retrieved 8 January 2017, from

- **Bureau of Labor Statistics 2009 National Compensation Survey, used in 2015 U.S. Department of Labor Report:** “The Bureau of Labor Statistics’ National Compensation Survey analysis shows that workers who have access to a fixed number of paid sick days use, on average, four days per year. That’s about half of the eight or nine days to which they typically have access.”⁵

San Francisco: Although many workers can earn up to nine paid sick days under the law, the typical worker with access used only three days.⁶

Connecticut: Employers reported that employees typically used 3 days of paid sick days a year but had an average 7.7 days available to them. Although Connecticut’s paid sick days law requires some employers to provide 5 paid sick days, these employers reported providing an average of 7.7 days to their employees.⁷

New York City: Although most workers can earn up to five paid sick days a year, workers typically used only three days.⁸

Washington, D.C.: *We only have projected numbers of usage: “Based on data on sick leave usage patterns across the United States from the National Health Interview Survey employees in large businesses are estimated to use an average of two and a half days annually, out of a maximum of seven that may be accrued, excluding use for safe days and maternity. Employees in medium size businesses are estimated to take two days, and employees in small business are estimated to take a day and a half.”*

<http://iwpr.org/publications/pubs/paid-sick-days-access-and-usage-rates-vary-by-race-ethnicity-occupation-and-earnings/> (internal citations omitted)

⁵ U.S. Department of Labor. (2015, October). *Get The Facts On Paid Sick Time*. Retrieved 8 January 2017, from <https://www.dol.gov/featured/paidleave/get-the-facts-sicktime.pdf>

⁶ Drago R., & Lovell, V. (2011, February). *San Francisco’s Paid Sick Leave Ordinance: Outcomes for Employers and Employees*. Institute for Women’s Policy Research Publication. Retrieved 8 January 2017, from <http://www.iwpr.org/publications/pubs/San-Fran-PSD>

⁷ Appelbaum, E., & Milkman, R. (2014, February 21). *Good for Business? Connecticut’s Paid Sick Leave Law*. Center for Economic and Policy Research Publication. Retrieved 8 January 2017, from <http://cepr.net/documents/good-for-buisness-2014-02-21.pdf>

⁸ Appelbaum, E., & Milkman, R. (2016, September). *No Big Deal: The Impact of New York City’s Paid Sick Days Law on Employers*. Center for Economic and Policy Research Publication. Retrieved 8 January 2017, from <http://cepr.net/images/stories/reports/nyc-paid-sick-days-2016-09.pdf>

⁹ Williams, C., & Hayes, J. (2013, October). *Valuing Good Health in the District of Columbia: The Costs and Benefits of the Earned Sick and Safe Leave Amendment Act of 2013*. Institute for Women’s Policy Research Publication. Retrieved 8 January 2017, from <http://www.iwpr.org/publications/pubs/valuing-good-health-in-the-district-of-columbia-the-costs-and-benefits-of-the-earned-sick-and-safe-leave-amendment-act-of-2013>

Current Paid Sick Days Laws

SEPTEMBER 29, 2017

Paid sick days laws are or will soon be in place in **40 jurisdictions** across the country.

EIGHT STATES

- ▶ Connecticut (enacted 2011, effective 2012);
- ▶ California (enacted 2014, effective 2015);
- ▶ Massachusetts (enacted 2014, effective 2015);
- ▶ Oregon (enacted 2015, effective 2016);
- ▶ Vermont (enacted 2016, effective 2017 for large businesses and 2018 for small businesses);
- ▶ Arizona (enacted 2016, effective 2017);
- ▶ Washington (enacted 2016, effective 2018); and
- ▶ Rhode Island (enacted 2017, effective 2018).

30 CITIES and TWO COUNTIES

- ▶ San Francisco (enacted 2006, effective 2007), Oakland (enacted 2014, effective 2015), Emeryville (enacted and effective 2015), Santa Monica (enacted 2016, effective 2017), Los Angeles (enacted and effective 2016), San Diego (enacted 2014 and placed on hold pending voter approval in 2016, effective 2016), and Berkeley (enacted 2016, effective 2017), Calif.;
- ▶ Washington, D.C. (enacted and effective 2008 and expanded 2014);
- ▶ Seattle (enacted 2011, effective 2012), Tacoma (enacted 2015, effective 2016) and Spokane (enacted 2016, effective 2017), Wash.;
- ▶ New York City (enacted 2013, expanded and effective 2014);
- ▶ Bloomfield (enacted and effective 2015), Elizabeth (enacted 2015, effective 2016), East Orange, Irvington, Jersey City, Montclair, Newark, Paterson, Passaic, Trenton (enacted 2013 and 2014, effective 2014 or 2015; Jersey City expanded 2015), New Brunswick (enacted 2015, effective 2016), Plainfield (enacted and effective 2016), and Morristown (enacted 2016, effective date not yet determined), N.J.;
- ▶ Philadelphia (enacted and effective 2015) and Pittsburgh (enacted 2015, implementation on hold), Pa.;
- ▶ Montgomery County, Md. (enacted 2015, effective 2016);
- ▶ Minneapolis and St. Paul (enacted 2016, effective 2017), Minn.; and

- ▶ Chicago and Cook County (enacted 2016, effective 2017), Ill.

Details on each of these laws are available [here](#). For more information on campaigns in other states and cities and at the federal level, or for more on the benefits of paid sick days policies, visit PaidSickDays.org.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, access to quality health care and policies that help women and men meet the dual demands of work and family. More information is available at NationalPartnership.org.

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Letters

Monday, Oct. 2, 2017: Give workers paid sick leave, smears silence immigration debate, organize relief for Puerto Rico

September 30, 2017 10:48 am

Updated: October 1, 2017 7:24 am

Give workers paid sick leave

While Sen. Rebecca Millett's bill — **LD 1159** — requiring employers to provide paid sick days to their employees failed to pass in the Legislature, she helped to jumpstart a conversation throughout the state about the importance of providing the benefit to working people. In Portland, city councilors are considering **an earned paid sick leave ordinance** in Maine's largest city.

The proposal — brought forward by the Southern Maine Workers' Center and Maine Women's Lobby — has already gained the support of Mayor Ethan Strimling and several councilors.

The ordinance would **allow workers to earn** at least one hour of paid sick time for every 30 hours worked up to six days per year. Employers would not be required to pay employees for their unused time when they leave their jobs.

Nearly 200,000 Maine workers are unable **to take a paid sick day**, according to the National Partnership for Women & Families, and they are forced to choose between coming to work sick or losing their pay — something that many of them simply can't afford to do. For the rest of us, paid sick days are a public health issue, as we're exposed to the germs of workers in restaurants and other workplaces who are forced to come to work sick.

Earned paid sick leave is already the law in **three New England states** and **more than 20 cities** around the country. Portland should be next, leading the way for the rest of Maine to follow.

Matthew Beck

South Portland

Smears used to silence debate

In 1966, when President Lyndon Baines Johnson and the Vietnam War enjoyed overwhelming public support, I read Bernard Fall's book "**Street Without Joy: Indochina at War.**" Overnight, I became an anti-war activist. My father, a college professor, insisted I had swallowed communist propaganda.

In his **autobiography**, Colin Powell writes: "I recently reread Bernard Fall's book, 'Street Without Joy' ... I cannot help thinking that if President Kennedy or President Johnson had spent a quiet weekend at Camp David reading that perceptive book, they would have returned to the White House Monday morning and immediately started to figure out a way to extricate ourselves from the quicksand of Vietnam."

Temporarily ignoring headlines that agitate us, and immersing ourselves in a transforming book, is like dunking your head in a barrel of ice water: it clarifies thoughts and calms emotions.

Mark Krikorian, director of the Center for Immigration Studies, a think-tank focused on fiscal and economic analysis of immigration policy, has written an equally profound book, "**The New Case Against Immigration: Both Legal and Illegal.**" It's not a white nationalist rant, and it doesn't provoke animus. It's a thoughtful book that left me stunned by the information missing in our news, not unlike Vietnam.

Trigger warning: The Southern Poverty Law Center, a self-appointed authority on racism, recently smeared the center as a "**hate**" group. In the 1950s and 1960s, the words "commie" and "pinko" would silence your political opponent without any debate. Today, it's the word "hate."

Don't be deterred. Read the book. And make up your own mind.

Jonette Christian

Founder

Mainers for Sensible Immigration Policy

Letter to the editor: All Americans need sick days to be guaranteed

www.pressherald.com/2017/11/12/letter-to-the-editor-all-americans-need-sick-days-to-be-guaranteed/

As an emergency department attending physician here in Maine, not a shift goes by without me seeing a hardworking person affected by their lack of paid sick days. Regardless of the specific scenario, the one consistent element is the delay in seeking help or treatment because of the need to prioritize keeping their job over any personal needs. A few examples:

Delayed treatment for a young daughter with asthma who became sick in the early morning but could not be seen until 18 hours later, after Mom finished the second of two jobs she worked that day. The child's wheezing had worsened dramatically due to the delay. Neither of the mother's jobs allowed her to leave without a perceived threat of losing that job.

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- Vote early, vote often, vote each time they will let you

A man in his early 40s with diabetes continued to work "through a bad cold" long hours, six days a week, for almost three weeks until he literally collapsed at work. Employees called 911. He arrived severely short of breath with pneumonia.

I'm writing in support of the earned paid sick days that will be formally reviewed Tuesday by the Health and Human Services Committee of the Portland City Council. Similar legislation has been passed in eight states and 30 cities with profound success. I'm hoping that your readers who reside in Portland will speak with their local councilperson in support of their fellow citizens.

Carl Ramsay, M.D.

Portland

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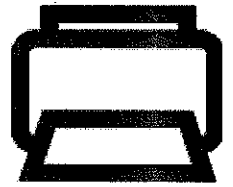
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Letter to the editor: Restaurant worker dishes on need for universal paid sick time

www.pressherald.com/2017/09/21/letter-to-the-editor-restaurant-worker-dishes-on-need-for-universal-paid-sick-time/

On Sept. 18, the City Council heard a proposal for an ordinance that would mandate universal paid sick days in Portland.

In the last 17 years of working in restaurants across southern Maine, I have never worked in a place that offered paid sick days. Whenever I or a co-worker (or their child) is sick, we choose between caring for ourselves or our loved ones and being paid. This is a terrible choice for anyone to have to make.

Related Headlines

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Almost 20,000 people in Portland's and South Portland's labor force are employed in the restaurant industry. If we choose to opt for a paycheck and work sick, we are exposing our co-workers and dozens of customers at a time to illness. The lack of access to this basic safety-net policy has the potential to result in a massive public health issue.

Nationally, the American Public Health Association estimates that during the H1N1 pandemic in 2009, there were an additional 5 million cases of influenza directly attributable to the absence of workplace policies, including paid sick days. Moreover, the Institute for Women's Policy Research has found that universal paid sick days in the U.S. would result in 1.3 million fewer emergency room visits, with an estimated savings of \$1.1 billion in health care costs. Huge benefits for a small policy.

In a progressive city with a national reputation for our food and beverage scene, enacting a universal paid sick days ordinance is a small but significant step toward both work with dignity for the numerous employees in the food and hospitality industries, as well as prioritizing the health of all of Portland's public and the millions of tourists who visit our city each year. If you support this vision, contact your city councilor.

Heather Foran

Portland

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Portland, Maine



Yes. Life's good here.

Office of the Mayor, Ethan K. Strimling

Portland Earned Paid Sick Time Ordinance

The Problem

It is estimated that thousands of workers in Portland do not currently earn a single paid day off to care for their own medical well being, ensure their physical safety, or to care for the health of their child.¹ This leads to greater public health risks,² increased health care costs³ and greater economic instability for many of our neighbors who must choose between health and income.

The Solution

Healthy and safe workplaces are critical to Portland's public viability, therefore *The Portland Earned Paid Sick and Safe Time Ordinance* [EPST] will ensure that all employees working in Portland accrue a minimum of one hour of sick time for every 30 hours worked (up to a maximum of six days a year). If a current employer already provides this amount of sick time (or PTO), they will not be impacted by this provision.

How it will work

The policy is designed to promote public health and support our workers, while balancing employers' needs to meet customer expectations. It is modeled after the laws that have been successfully enacted in other jurisdictions. Attached is the full ordinance for review; however, the highlights are:

Uses

- EPST may be used for an employee's mental or physical health, injury, diagnosis, prevention or condition including absence due to domestic violence, sexual assault, or stalking. It may also be used for the care of a family member or to attend a meeting at a place where a family member is receiving care.

¹ Statewide data puts the number of workers with no earned sick time at 198,000: Institute for Women's Policy Research & National Partnership for Women & Families (2015, May). Portland accounts for 12% of the statewide workforce, meaning we likely have over 20,000 workers with no earned sick time.

² Nationally we know that parents without sick time are twice as likely to send a sick child to school.
http://www.epi.org/publication/the_need_for_paid_sick_days/

³ Ibid. (Nationally we know that parents without sick time are five times as likely to take their child to an emergency room because they are unable to go to the doctor during work hours.)

Public Health Impact

According to City of Portland Staff, "There are a number of studies showing that paid sick leave leads to increased utilization of preventive services and decreased spread of infectious diseases, including the flu." A few of the findings include(see attached memo from Julie Sullivan):

- Lack of access to paid sick leave results in the spread of infectious diseases, as well as delayed screenings, diagnoses, and treatment.⁴ (American Medical Association)
- Studies indicate that paid sick leave has positive health and economic impacts on communities.⁵ (Human Impact Partners)
- Paid sick leave can reduce employers' overall costs while simultaneously contributing to community health.⁶ (US Congress)

Economic Impact

EPST laws have been on the books for a decade showing no measurable negative economic impacts. A couple of highlights are:

- Seven years after San Francisco implemented EPST that required all businesses to provide sick time to all workers, the SF Chamber of Commerce stated that the impact on employers has been "...minimal...By and large this has not been an employer issue."⁷
- According to a 2014 study of Connecticut's statewide EPST law, a survey of employers found that the law had little impact on costs and that a majority of businesses have not increased prices or reduced employee hours because of the law. Additionally, the same survey reported that the law improved employee productivity.⁸

Public Support

A recent survey by Public Policy Polling showed that 67% of people in Portland support requiring earned sick time, including 75% of women, 70% of seniors and 61% of people who live off the Peninsula. Only 25% of Portland residents do not support requiring employers to provide sick time and 8% are undecided.⁹

⁴ American Medical Association. (June 2016). "AMA Recognizes Public Health Benefits of Paid Sick Leave."
<https://www.ama-assn.org/ama-recognizes-public-health-benefits-paid-sick-leave>

⁵ Human Impact Partners and San Francisco Dept of Public Health. (2009).
<http://www.humanimpact.org/projects/hia-case-stories/paid-sick-days-hias/>

⁶ U.S. Congress Joint Economic Committee. (March 2010).
<https://www.jec.senate.gov/public/cache/files/abf8aca7-6b94-4152-b720-2d8d04b81ed6/sickleavereportfinal.pdf>

⁷ Jim Lazarus, Sr. VP for Policy, SF Chamber of Commerce, New York Time, January 27, 2014

⁸ Appelbaum, E., & Milkman, R (2014, January 6)

⁹ <http://progressiveportland.org/wp-content/uploads/2017/08/PortlandResultsSickLeave-with-tabs.pdf>

Portland, Maine



Yes. Life's good here.

Executive Department
Julie Sullivan
Senior Advisor to the City Manager

M E M O R A N D U M

TO: Jon Jennings, City Manager
FROM: Julie Sullivan
DATE: August 24, 2017
RE: Paid sick leave and improved community health

As requested, I researched whether paid sick leave policies contribute to improved community health. There are a number of studies showing that paid sick leave leads to increased utilization of preventive services and decreased spread of infectious diseases, including the flu. Evidence also shows that paid sick leave laws address the disproportionate impact on lower-income jobs, who are most likely to work for employers who do not offer such a policy. The opposition to paid sick leave appears to come solely from business organizations who state that increased regulation is bad for their bottom line. Other than that type of argument, I did not find any data showing that paid sick leave does not contribute to improved public health.

There are numerous additional sources I could cite if that would be helpful.

- Studies indicate that paid sick leave has positive health and economic impacts on communities. (Human Impact Partners)
- People without paid sick leave were 3.0 times more likely to forgo medical care for themselves, and 1.6 times more likely to forgo medical for their family. (Health Affairs, March 2016)
- Paid sick leave can reduce employers' overall costs while simultaneously contributing to community health. (US Congress, Joint Economic Committee)
- A large study found that regardless of socioeconomic factors, workers who lack paid sick leave were significantly less likely to have received preventive health care screenings in the last 12 months, even among those previously told they have a condition like diabetes or cardiovascular disease that places them at higher risk. (Preventive Medicine, March 2017)
- The American Medical Association cited lack of access to paid sick leave results in the spread of infectious diseases, as well as delayed screenings, diagnoses, and treatment (AMA, 2016).
- In a national survey of more than 4,300 restaurant workers, 88% reported not having paid sick leave, and consequently 63% admitted that they cooked and served food while ill. (APHA, 2013) The US Department of Labor reports that 55% of workers who do not receive paid sick leave say they go to work while contagious. Perhaps more concerning, 12% of

restaurant works report showing up to work while vomiting or suffering diarrhea because they don't have paid sick leave.

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Vermont Dept of Public Health. (Feb 2015) <https://vtpha.org/file-downloads/paid-sick-leave.pdf>

Earned Paid Sick Time Ordinance

Presented by

Erin Hennessey
Southern Maine Workers' Center

and

Eliza Townsend
Maine Women's Lobby



ERIN: My name is Erin Hennessey and I am with the Southern Maine Workers' Center.

ELIZA: My name is Eliza Townsend and I am with the Maine Women's Lobby.

ELIZA: Thank you for the opportunity to present why we're so excited about the proposed Earned Paid Sick Time ordinance that your committee is considering.

ELIZA: Many of our neighbors, friends, and ourselves here in Portland are struggling. And that means that we cannot stay out of work for three days to get over the flu, and so we work, and get worse, and threaten to infect our coworkers and customers. We cannot leave work early to pick up a sick child from school, and so she stays at school, infecting others, unable to learn. We cannot miss a day's pay to take our partner to their doctor's appointment, even if they are facing a serious illness. And so our loved ones are isolated in the face of health crises. And these stories, playing out over and over again all over this City, make Portland an unhealthier place for all of us.

Paid sick time is a proven tool to:

- Decrease the spread of illness
- Improve recovery
- Support preventative health care
- Improve productivity for businesses
- Reduce employee turnover



ERIN: When workers can earn paid sick time, our communities are healthier. Paid sick time helps to:

- Decrease the spread of contagious illnesses—especially important as we enter cold and flu season in Maine
- Improve recovery from illnesses and treatments
- Supports the use of preventative care, including prenatal care, which helps prevent some illnesses from becoming more serious. Studies show that people with paid sick days are more likely to have had doctors visits within the past year, and more likely to be getting important preventative tests like mammography, Pap test, and endoscopy at the recommended intervals.
- Access to paid sick days reduces on-the-job injuries, reduces turnover, and lowers costs from something called 'presenteeism' -- which is people showing up to work sick, when they're not actually able to perform. All those problems currently cost businesses real money, and instituting paid sick time will help alleviate those costs.
- Businesses also save money from reduced employee turnover when employees have access to paid sick time.

Paid sick time helps Portland children:

- Aids children's health
- Shortens hospital stays
- Reduces disease transmission—
keeping more kids healthy and in
school



ELIZA: Paid sick time are also important for the health and well-being of Portland children. When parents don't have access to paid sick time, children go to child care and school when then should stay home. They don't go to the doctor for preventive health like the should. And illnesses spread throughout our community.

ELIZA: Ina Demers, an educator here in Portland shared a story that illustrates this problem, "I had a fourth grader, crying in my classroom, because she had a headache. The nurse told me that she also had a fever. I asked her to call her mom so she could go home, and she said that her mom needed to go to work because they needed the money to pay rent. Without paid sick time, workers need to send their sick children to school which is bad for the sick student and bad for the students they share a classroom with. Parents should not have to face the impossible situation of choosing between a paycheck or keeping their sick child home."



ELIZA: This poster is from the U.S. Centers for Disease Control. Medical and disease professionals always recommend that workers stay home when sick—and these warnings are shared every year during flu season as well as when outbreaks of more serious diseases, like Ebola and whooping cough, occur. We know that the right thing to do is to stay home when we're ill, but for those without paid sick time, that isn't a financially viable option.

Growing Momentum for Earned Paid Sick Time Policies

8 states, including:

Connecticut
Massachusetts
Vermont
Rhode Island



ERIN: The policy makes common sense, which is why it has already been enacted all over the country, in states and cities large and small. Eight states, 2 counties, and 30 cities, including ten cities that are of comparable size or smaller than Portland, all have similar policies. And what's more, many businesses supported these policies once they went into effect.

ERIN: Among the eight states are four New England states, Connecticut, Massachusetts, Vermont, and Rhode Island.

Growing Momentum for Earned Paid Sick Time Policies

30 cities & 2 counties, including (by population):

Emeryville, CA 11,671
Morristown, NJ 19,016
Montclair, NJ 38,700
Bloomfield, NJ 48,539
Plainfield, NJ 50,636
Irvington, NJ 54,425
New Brunswick, NJ 56,910
East Orange, NJ 64,789
Passaic, NJ 70,635
Trenton, NJ 84,056



ERIN: A third of the cities that have passed earned paid sick time laws are a comparable size to Portland, or smaller, as you can see from this list. As you know, in 2016, Portland's population was estimated at 66,937.

ERIN: Momentum for this policy is growing. And here in Portland, on Election Day, 1800 voters signed on in support of this ordinance. People know that this is common sense and needed.

All Workers!

An estimated 26,000 workers in Portland cannot take one paid day off if they're sick.

Many of these workers are in low-wage jobs with high people contact: restaurants, retail, child & elder care.

Two years after NYC enacted its policy, a poll found that 84.6% of businesses said the policy had no impact on their costs.



ERIN: Last year it came out that more than half of Americans, 63%, don't have enough of a financial cushion to cover a \$500 unexpected expense. And you don't need us to tell you that if you're a woman, or a person of color, or an immigrant, this statistic is significantly worse. Missing a paycheck due to an illness is a scary proposition when you're living on the edge of poverty. Getting fired because you missed work due to an illness is even scarier.

ERIN: This policy covers all workers in Portland, regardless of the size of business they work for. Small businesses like Aura, Think Tank, Cong Tu Bot, Etain, and Coffee By Design already support this proposal. They understand that this policy will not only help their employees, it will help their workplace culture, because when workers feel taken care of instead of disposable, morale improves and people stay.

ERIN: It's important that businesses of all sizes be included because the Department of Labor estimates 8,000 people in Portland work for businesses which have fewer than ten workers, and more than 28,000 work for business with fewer than 50 employees. Small businesses are also less likely to already provide paid sick days to workers. Nationally, less than 40% of business with 1-9 employees offer paid sick days, as compared to 77% of companies with 250 or more employees.

ERIN: When these policies are implemented, they don't harm business. For example, two years after NYC enacted its policy, a poll found that 84.6% of businesses said the policy had no impact on their costs.

Justice

"Given the disproportionate access to paid sick leave based on race, ethnicity and income status, coupled with its relationship to health and mental health, paid sick leave must be viewed as a health disparity as well as a social justice issue." -LeaAnne DeRigne, Ph.D., of Florida Atlantic University



ELIZA: As LeaAnne DeRigne of Florida Atlantic University said in a recent report, "Given the disproportionate access to paid sick leave based on race, ethnicity and income status, coupled with its relationship to health and mental health, paid sick leave must be viewed as a health disparity as well as a social justice issue."

ELIZA: According to one study, nearly 40 percent of mothers say they are solely responsible for staying home from work with sick children, compared with only 3 percent of fathers. In fact, "being female doubles the odds of experiencing job termination related to family illness." For women who struggle to hold down jobs while juggling caregiving responsibilities, even a small amount of paid sick time could provide the wiggle room necessary to avoid job loss, and help keep families healthy.

ELIZA: We know that People of Color, immigrants, and women are more likely to work in low-wage jobs that also do not offer employees the ability to earn paid sick time.

Reflect our Families

Broad definition of “family” that supports the diverse families and caregiving relationships in our community.

Today, more than 10 million people have the legal right to paid sick time with a family definition that includes chosen family.



ERIN: Another aspect of this policy that we’re excited about is it’s wide definition of family. It includes traditional and legal definitions of family as well as “any other individual related by blood or affinity” who is the equivalent of a family relationship. That language is an acknowledgment and celebration of the fact that people in our community exercise our freedom to form families and take responsibility for each other in ways that the law didn’t previously recognize. This is important to LGBTQ people in particular, because there are many people in this community who have been disowned by their biological family because of their identities and are instead supported by chosen family. They should be able to care for whomever they deem a loved one, regardless of their legal or biological relationship to that person.

Supports Victims/Survivors of Violence

Paid “Safe Days” are vital to help survivors of violence access critical services without risking financial security.



ELIZA: We also want to highlight that this policy allows employees to take the leave they’ve earned to receive medical attention and counseling to recover from domestic abuse, sexual assault, harassment, or stalking. These “safe days” are vital to help survivors of violence access critical services without risking financial security, and when leave policies fail to cover these circumstances, it can further stigmatize and traumatize victims.

Earned Paid Sick Time

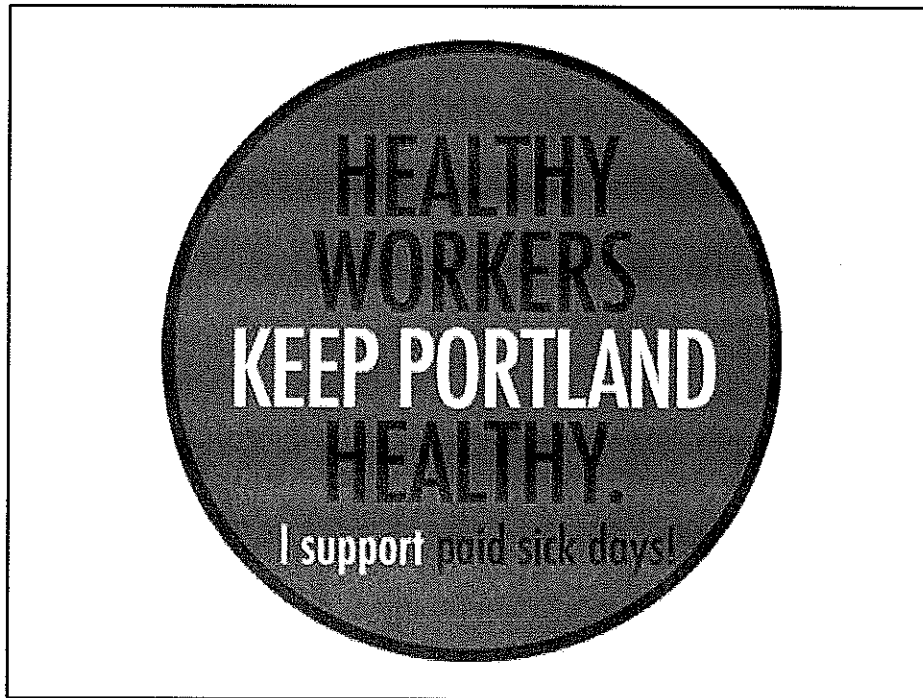
Provide Portland workers, families, and businesses with:

- Better health, less spreading of illnesses
- Lower health costs
- Healthier children and schools
- Greater financial security
- Less employee turnover
- Racial, gender, and economic justice



ERIN: We are a dense population with a large number of restaurants and the largest school district in Maine. Our health is dependent on one another.

ERIN: Allowing all employees of all businesses in Portland—whether they are full-time or part-time—to earn one hour of sick leave for every 30 hours they work, will make it possible for more workers to recover from illness, seek treatment, or support a loved one to do the same. Although the ordinance makes only a small change in the terms of work for Portland employees, it represents a significant opportunity to improve public health in our city -- for residents, visitors, and children alike.



ELIZA: The proposed ordinance before you would allow all workers in Portland to earn paid sick leave—a critical tool in our public health toolbox. This is a policy that builds on the momentum and experiences of cities and states across the country.

ELIZA: Together we can keep Portland healthy by keeping our workers healthy!

ELIZA: Thank you. We are happy to answer any questions and provide more information.

ELIZA: We've also shared with you additional materials to help with your deliberations. We're happy to look at any of that with you if you have questions.

HHS

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Definitions

The following definitions shall apply for purposes of this Article:

Earned paid sick time shall mean paid sick time accrued and awarded pursuant to section X.

Employee shall have the same meaning as in Sec. 33.2 of this Code.

Employer shall have the same meaning as in Sec. 33.2 of this Code.

Family member shall mean: (A) Regardless of age, a biological, adopted or foster child, stepchild or legal ward, a child of a domestic partner, a child to whom the employee stands in loco parentis, or an individual to whom the employee stood in loco parentis when the individual was a minor; (B) A biological, foster, stepparent or adoptive parent or legal guardian of an employee or an employee's spouse or domestic partner or a person who stood in loco parentis when the employee or employee's spouse or domestic partner was a minor child; (C) A person to whom the employee is legally married under the laws of any state, or a domestic partner of an employee as registered under the laws of any state or political subdivision; (D) A grandparent, grandchild or sibling (whether of a biological, foster, adoptive or step relationship) of the employee or the employee's spouse or domestic partner; (E) A person for whom the employee is responsible for providing or arranging care, including but not limited to helping that individual obtain diagnostic, preventive, routine or therapeutic health treatment; or (F) Any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.

Health care professional shall have the same meaning as in 26 M.R.S. § 843.

Year shall mean a regular and consecutive 12-month period as determined by the employer.

Accrual of Earned Paid Sick Time

(a) All employees shall accrue a minimum of one hour of earned paid sick time for every 30 hours of work, up to a maximum accrual of 48 hours in one year.

1. Employees who are exempt from overtime requirements under the Fair Labor Standards Act will be deemed to work 40 hours in each work week for purposes of earned paid sick time accrual, unless their normal work week is less than 40 hours, in which case earned paid sick time accrues based upon that normal work week.
2. Employees shall begin to accrue earned paid sick time at the commencement of employment or on the date this law goes into effect, whichever is later.

3. Accrued paid sick time shall be awarded and available for use no more than eight days after it is accrued. Alternatively, an employer may award paid sick time in advance of accrual in an amount anticipated to be accrued over a year's time.

(b) Earned paid sick time shall not be automatically forfeited with the passage of time, unless the employer has a policy to pay the employee for any remaining sick time at set intervals of not less than one year.

However, nothing in this Article shall be construed as requiring financial or other reimbursement to an employee from an employer upon the employee's termination, resignation, retirement or other separation from employment for accrued earned paid sick time that has not been used.

(c) If an employee is transferred to a separate division, entity or location, but remains employed by the same employer, the employee is entitled to all earned paid sick time accrued at the prior division, entity or location and is entitled to use all earned paid sick time as provided in this section. When there is a separation from employment and the employee is rehired within two months of separation by the same employer, previously accrued earned paid sick time that had not been used shall be reinstated. Further, the employee shall be entitled to use accrued earned paid sick time and accrue additional earned paid sick time at the re-commencement of employment.

(d) When a different employer succeeds or takes the place of an existing employer, all employees of the original employer who remain employed by the successor employer are entitled to all earned paid sick time they accrued when employed by the original employer, and are entitled to use earned paid sick time previously accrued.

(e) At its discretion, an employer may loan earned paid sick time to an employee in advance of accrual by such employee.

(f) Any employer that has a paid leave policy that makes available an amount of paid leave sufficient to meet the accrual requirements of this section, and allows that paid leave to be used for the same purposes and under the same conditions as earned paid sick time under this ordinance, is not required to provide additional paid sick time.

Use of Earned Paid Sick Time

- (a) Employees may use earned paid sick time for any of the following:
1. Job protected leave provided pursuant to the Maine Employment Leave for Victims of Violence statute;
 2. Leave for an employee's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care or treatment of a mental or

physical illness, injury, or health condition; or an employee's need for preventative medical care;

3. Leave for care of a family member's mental or physical illness, injury, or health condition; an employee's need for medical diagnosis, care or treatment of a mental or physical illness, injury, or health condition; or an employee's need for preventative medical care; or
4. Leave to attend a school meeting or meeting at a place where a family member is receiving care necessitated by the family member's health condition or disability.

(b) Earned paid sick time may be used in the smaller of hourly increments or the smallest increment that the employer's payroll system uses to account for absences or use of other time.

(c) Employees may not use more than 48 hours of earned paid sick time in a year, unless the employer selects a higher limit.

Procedures for Taking Earned Paid Sick Time

(a) Earned paid sick time shall be provided upon the request of an employee.

1. An employer may not require more than five days' notice for an employee to use earned paid sick time, when the need is foreseeable.
2. When the need for use of earned paid sick time is not foreseeable, an employee must provide notice to the employer as soon as practicable under the facts and circumstances of the particular case
3. An employer that requires notice of the need to use earned paid sick time shall provide a written policy that contains procedures for the employee to provide notice. An employer that has not provided to the employee a copy of its written policy for providing such notice shall not deny earned paid sick time to the employee based on non-compliance with such a policy.
4. When the use of earned paid sick time is foreseeable, the employee shall make a good faith effort to provide notice of the need for such time to the employer in advance of the use of the earned paid sick time and shall make a reasonable effort to schedule the use of earned paid sick time in a manner that does not unduly disrupt the operations of the employer.

(b) An employer may not require, as a condition of an employee's taking earned paid sick time, that the employee search for or find a replacement worker to cover the hours during which the employee is using earned paid sick time.

(c) For earned paid sick time of three or more consecutive work days, an employer may require reasonable documentation that the earned paid sick time has been used for a purpose covered by **Sec. X**(a)(2) through (a)(4). An employer may not require that the documentation explain the nature of the reasons for leave. However, nothing in this section shall be construed to limit an employer's rights with respect to documentation of leave allowed under state or federal law.

1. Documentation signed by a health care professional indicating that earned paid sick time is necessary shall be considered reasonable documentation for purposes of this section.
2. If an employer requires documentation of the reasons for taking earned paid sick time, the employer is responsible for paying the employee's out-of-pocket costs for obtaining such documentation.

Section 4. Exercise of Rights Protected; Retaliation Prohibited

(a) It shall be unlawful for an employer or any other person to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right protected under this Article.

(b) It shall be unlawful for an employer or any other person to retaliate against an employee for exercising his or her rights under this Article, including requesting or using earned paid sick time; filing a complaint or otherwise complaining about an employer's alleged violation of this Article; participating in an investigation or other proceeding under this Article; or informing others of their rights under this Article.

(c) It shall be unlawful for an employer's absence control policy to count earned paid sick time taken under this Act as an absence that may lead to or result in discipline, discharge, demotion, suspension, or any other adverse action. However, nothing in this Article shall be construed to prohibit an employer from taking disciplinary action against an employee who uses earned paid sick time for purposes other than those described in this Article.

(d) Protections of this section shall apply to any person who mistakenly but reasonably alleges a violation of this Article.

Notice of Rights

(a) Employers shall both display a poster notifying employees of their rights under this Article, and give employees written notice at the commencement of employment

or the effective date of this ordinance, whichever is later. The poster and notice shall be consistent with this section.

(b) The notice and poster shall contain the following information: that employees are entitled to earned paid sick time and the amount of earned paid sick time; the terms of its use guaranteed under this Act; that retaliation is prohibited; that each employee has the right to file a complaint or bring a civil action if earned paid sick time as required by this Act is denied by the employer or the employee is subjected to retaliatory personnel action for requesting or taking earned paid sick time, and the contact information for the City of Portland where questions about rights and responsibilities under this Act can be answered.

(c) The notice and poster shall be provided in English, Spanish, Somali, Chinese, Vietnamese, Russian, Croatian, French, Arabic, Polish, Acholi, Farsi, Dinka, Khmer, Creole and any language that is the first language spoken by at least 5% of the employer's workforce, provided that such notice has been provided by the City of Portland.

(d) The City of Portland shall create and make available to employers, in all languages spoken by more than 5% of the City's workforce and any language deemed appropriate by the City of Portland, model notices and posters meeting the requirements of this section.

(e) The amount of earned paid sick time available to the employee, the amount of earned paid sick time taken by the employee to date in the year and the amount of pay the employee has received as earned paid sick time shall be recorded in, or on an attachment to, the employee's regular paycheck.

(f) An employer who willfully violates this section shall be subject to a civil fine in an amount not to exceed \$100 for each separate offense.

Recordkeeping Requirements

(a) Employers shall retain records documenting hours worked by employees and earned paid sick time earned and taken by employees for a period of six (6) years.

(b) Employers shall allow the City of Portland access to the records required by this section, with appropriate notice and at a mutually agreeable time.

(c) When an issue arises as to an employee's entitlement to earned paid sick time under this Article, if the employer has not maintained adequate records required by this section, or does not allow the City of Portland reasonable access to such records, it shall be presumed that the employer has violated this Article, absent clear and convincing evidence otherwise.

Enforcement

(a) Enforcement.

1. The City Manager or his/her designee shall enforce the provisions of this ordinance.
2. The City Manager shall adopt rules and regulations for the proper administration and enforcement of this ordinance.

(b) Complaint Process

1. Any Employee, including, but not limited to, a Service Employee, alleging a violation of this ordinance may file a written complaint with the City Manager's office.
2. The City Manager or his or her designee may investigate and issue a response to the complaint within fifteen (15) work days following the receipt of a complaint. The City Manager's or his or her designee's response to the complaint shall be final.
3. If the City Manager finds that a violation of this chapter has occurred, he or she may order any and all appropriate relief including, but not limited to, three times the amount of any back wages withheld and the payment of not less than \$100.00 to the employee as a penalty for each day that a violation of this chapter has occurred. If a violation occurred but did not result in wages being withheld, such as in the case of an employee who worked after being unlawfully denied permission to use earned paid sick time, appropriate relief shall include an additional amount of two times what the employee was paid.
4. A violation of this Ordinance may also be considered a civil violation subject to the general penalty provisions of section 1-15 of this Code.

(c) Private Cause of Action.

1. Any Employee, including, but not limited to, a Service Employee, the City or any person aggrieved by a violation of this ordinance may bring an action in a Court of competent jurisdiction against the Employer for any and all violations of this ordinance, including, but not limited to, wages owed under this ordinance. Such action may be brought by a person aggrieved by a violation of this section without first filing a complaint with the City Manager. Actions brought pursuant to this section may be brought as a class action pursuant to the laws of Maine.
2. Upon a judgment being rendered in favor of any employee(s), in any action brought pursuant to this ordinance, such judgment shall include, in addition to the wages adjudged to be due and any penalties assessed, any and all costs of suit including, but not limited to, reasonable attorney's fees.
3. Where applicable, remedies shall also include equitable relief, including reinstatement and back pay, and injunctive relief.

4. The City of Portland shall annually report on the City of Portland website the number and nature of the complaints received pursuant to this ordinance, the results of investigations undertaken pursuant to this ordinance, including the number of complaints not substantiated and the number of notices of violations issued, the number and nature of adjudications pursuant to this ordinance, and the average time for a complaint to be resolved pursuant to this chapter.

Confidentiality and Nondisclosure

If an employer possesses health information or information pertaining to domestic violence, sexual assault, harassment or stalking about an employee or employee's family member, such information shall be treated as confidential and not disclosed except to the affected employee, with the permission of the affected employee, as required for the administration of the leave, or as otherwise required by law.

Encouragement of More Generous Earned Paid Sick Time Policies; No Effect on More Generous Policies or Laws

(a.a.i.1.a) Nothing in this Act shall be construed to discourage or prohibit an employer from the adoption or retention of an earned paid sick time policy more generous than the one required herein.

(a.a.i.1.b) Nothing in this Act shall be construed as diminishing the obligation of an employer to comply with any law, regulation, contract, collective bargaining agreement, employment benefit plan, or other agreement providing more generous paid sick time to an employee than required herein.

Public Education and Outreach

The City of Portland shall develop and implement a multilingual outreach program to inform employees about the availability of earned paid sick time under this ordinance. This program shall include the distribution of notices and other written materials in English, and well as Spanish, Somali, Chinese, Vietnamese, Russian, Croatian, French, Arabic, Polish, Acholi, Farsi, Dinka, Khmer, Creole to all child care and elder care providers, domestic violence shelters, schools, hospitals, community health centers and other health care providers.

Regulations

The city manager, or his or her designee, shall be authorized to coordinate implementation and enforcement of this Article and shall promulgate appropriate guidelines or regulations for such purposes.

Severability

If any provision of this Act or application thereof to any person or circumstance is judged invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared severable.

Effective Date

This Act will take effect on July 1, 2018.

Chapter 2 ADMINISTRATION*

ARTICLE IV. CIVIL SERVICE*

*Charter reference(s)--Mandate for civil service, Art. VI, § 3.

*Cross reference(s)--Commissions generally, § 2-31 et seq.

*Cross reference(s)--32 M.R.S.A. § 7166 (Limitation on use of polygraph in employment)

*Editor's Note--The Civil Service Ordinance was substantially reorganized and revised by Council Order No. 89-02/03, 11-4-02.

DIVISION 1. GENERALLY

Sec. 2-46. Definitions.

The following words and phrases, when used in this article, shall have the meanings respectively ascribed to them unless the context otherwise indicates:

~~Appointing authority means the City Manager.~~

Cause. In the case of a member, "cause" shall mean just cause and shall include any act or omission which constitutes legal cause and includes, but is not limited to: violation of any departmental rule or rules; incompetent or inefficient performance of duty; or inattention to or dereliction of duties; insubordination; discourteous treatment of the public or a fellow employee; violation of any provision of this article or the rules adopted thereunder, whether such violation may result in a forfeiture of office hereunder, or not; job suitability or physical unfitness to perform the normal duties of the position which the member holds; the use of intoxicating liquors, narcotics, or any other drug, liquid, or preparation on duty, or to such an extent that such use interferes with the efficiency or job suitability or physical fitness of the member, or prevents the member from properly performing the normal functions and duties of his or her position; misconduct; the commission of any disqualifying criminal offense; failure to report to the appropriate superior; errors, incompetence, misconduct, inefficiency, neglect of duty, or any other form of misconduct or negligence of which the member has knowledge; ~~failure of a firefighter or firefighter/paramedic to pass the first fire drill school offered within the first two years of appointment;~~ and any other acts or omissions which would tend to directly discredit or injure the public service or would jeopardize the effective functioning of the department. In the case of a civil service commissioner or alternate, "cause" shall include any act or omission which constitutes legal cause, and includes but is not limited to: incompetent or inefficient

performance of duty; unexcused absences from commission meetings; violation of any provision of this article or the rules adopted thereunder, whether such violation may result in a forfeiture of office hereunder, or not; the commission or conviction for any disqualifying criminal offense, or any action by the Civil Service Commissioner or alternate intended to affect or influence, or which could reasonably be expected to affect or influence any decision of the City Manager, the Chief of either department, or the City Council with respect to the department, or of any member of the department with respect to the performance of his or her duty.

Charge means a written statement to the member describing the act or omission constituting cause for action taken or proposed to be taken.

Civil service commission means collectively the two independent subcommittees constituting the commission, i.e. the employment subcommittee and the police citizen review subcommittee.

Demotion means any reduction in rank within the department but shall not include any economic layoff.

Director of human resources shall mean the person designated by the City Manager to act as Director of Personnel for the City and his or her designees (also referred to herein as the "Director").

~~*Disqualifying criminal conviction* means the conviction for any disqualifying criminal offense. The term shall not include such a conviction if it has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure. Juvenile offenses shall not disqualify but may be considered among other factors if otherwise relevant to the proposed action.~~

~~*Disqualifying criminal offense* shall mean and include any offense punishable by death or imprisonment for one (1) year or more under the law of the sentencing jurisdiction, whether or not such sentence is imposed or served; or any theft offense; or any sex offense; or any offense which involves dishonesty or false statement.~~

Member means any firefighter, firefighter/paramedic, police officer, or superior officer appointed hereunder to any rank within the fire or police departments, except the chiefs thereof.

Promotion means any advancement in rank within the department, other than the rank of chief.

Rank means the position classification of any member to which he or she has been appointed hereunder within the fire department or police department but shall not include any contractual or other pay differentials between functions or grades within each rank.

Relative means grandfather, grandmother, father, mother, son,

daughter, grandson, granddaughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, domestic partner, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, step-father, step-mother, step-son, step-daughter, step-brother, step-sister, half-brother, or half-sister, whether by half-blood or full blood, and whether by consanguinity or affinity.

~~Working test period means a probationary period during which the employee has no expectation of continued employment and may be removed for any reason, with or without just cause.~~

(Code 1968, § 201.1; Ord. No. 89-80, 7-7-80; Ord. No. 433-82, § 1, 3-15-82; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 4, 11-5-01)

DIVISION 2. CIVIL SERVICE COMMISSION*

Sec. 2-48. Composition.

(a) The Civil Service Employment Subcommittee of the Civil Service Commission shall consist of three (3) commissioners and one (1) alternate who shall serve in the absence of any commissioner.

(b) The police citizen review subcommittee shall consist of ~~seven~~ (7) commissioners ~~and one (1) alternate~~ who shall serve in the absence of any commissioner.

(Code 1968, § 201.3; Ord. No. 89-80 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01)

Sec. 2-49. Qualifications.

(a) *Qualifications of commissioners.* Every civil service commissioner and alternate shall be a resident of the City of Portland ~~and shall be of good moral character~~. In addition, the following persons shall not be eligible for appointment to, or service on the Commission:

- (1) Any present or former employee of the city, who was employed by the city within the previous ten (10) years;
- (2) Any present or former member of the City Council, who has held that position in the previous ten (10) years; or
- (3) Any civil service commissioner who has completed three (3) consecutive full terms of three (3) years as provided in Chapter 2, Article III.

(b) Additional subcommittee eligibility requirements:

- (1) *Employment subcommittee.* The following persons shall not be

eligible to serve on the employment subcommittee:

any relative of a present member of the police or fire departments.

(2) *Police Citizen Review Subcommittee.* In order to ensure an objective and unbiased audit of the police department's internal affairs investigation process, any applicant for service on the citizen review subcommittee shall be disqualified from serving on said subcommittee if:

- a. any member of the applicant's immediate family is or has been a Portland police officer in the previous ten (10) years;
- b. the applicant or any member of his or her immediate family has been arrested by any member of the Portland police department within the previous ten (10) years, or has had the final disposition of any criminal proceedings resulting from such an arrest within the previous ten (10) years, whichever is longer;
- c. the applicant or any member of his or her immediate family has filed a complaint with the internal affairs unit of the Portland police department ~~alleging excessive force, civil rights violations or conduct on the part of a police officer that would constitute a criminal offense~~ within the previous ten (10) years; and
- d. the applicant or any member of his or her immediate family has brought suit against the City of Portland, the Chief of Police, the police department or any individual police officer for a cause of action arising out of an officer's performance of his or her duties; within the last ten (10) years, or has had such a suit finally disposed of within the previous ten years, whichever is longer.
- e. "Immediate family" as used herein shall mean and include spouse, domestic partner, children, grandchildren, parents, grandparents, and siblings.

(c) Failure to disclose any grounds for disqualification or falsification of any information in the application process shall disqualify the person from service on the commission and shall constitute "cause" within the meaning of section 2-46.

(d) Any civil service commissioner or alternate who becomes ineligible to serve during his or her term shall resign, and failure to do so shall be "cause" within the meaning of section 2-46. A commissioner or alternate on the employment subcommittee who is a relative of any candidate for appointment under this article shall

inform the secretary in writing of such relationship and shall not attend any meeting of the subcommittee dealing with such candidacy, nor participate in nor attempt to influence any action by the commission with respect to the position for which such relative has applied.

(e) Reasonable efforts shall be made to ensure that the appointments to the civil service commission are diverse and representative of the community.

(Code 1968, § 201.4; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 370-91, § 1, 6-5-91; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01; Ord. No. 118-08/09, 12-1-08)

Sec. 2-54. Officers.

Each subcommittee of the civil service commission shall annually elect one (1) of its members as the chair. Each subcommittee may, at its option, also elect one (1) of its members as the vice chair, to serve in the absence of the chair. The Director of Human Resources or his or her designee shall serve as secretary to the employment subcommittee and shall furnish any necessary administrative assistance.

The corporation counsel or his or her designee shall serve as secretary to the police citizen review subcommittee and shall furnish any necessary administrative assistance to that subcommittee.

(Code 1968, § 201.3; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Substitute Ord. No. 83-01/02, § 3, 11-5-01)

DIVISION 3. EMPLOYMENT SUBCOMMITTEE

Sec. 2-58. Applicability; duties.

(a) *In general.* This division shall govern the appointment, reinstatement, promotion, demotion, layoff, suspension, resignation, or removal of members of the fire and police departments of the city, other than the chiefs thereof, except to the extent that the Maine Public Employees Labor Relations Law and any collective bargaining agreement made in accordance therewith provides to the contrary.

(b) *Duties.* In addition to carrying out the duties described elsewhere in this article, it shall be the duty of the employment subcommittee:

- (1) To establish a system of personnel administration for members of the departments based on competition, merit principles, and scientific methods, and to prevent unlawful discrimination based upon race or color, religion, age, sex (including pregnancy), sexual orientation, gender identity or expression, ancestry or national origin, physical or mental disability, veteran status, genetic information, previous assertion of a claim or right under Maine's Workers'

Compensation Act, previous actions taken protected under Maine's Whistleblowers' Protection Act, or any other protected group status as defined by applicable law, or race, color, age, religion, sex, sexual orientation, physical or mental disability, ancestry, national origin, veteran's status or political affiliation;

- (2) To ~~provide the City Manager with~~oversee the process of creating lists of names of persons eligible for specific appointments;
- (3) To make suitable rules, from time to time, which rules shall not be inconsistent with this article, applicable statutes, or regulations. Proposed rules shall be submitted to the City Manager and shall become effective when approved by the City Manager. All such rules shall be recorded in the office of the City Clerk; and

~~_(4) To request and review reports of the chiefs of the police and fire departments detailing the departmental rules and regulations relating to physical fitness of members. When, and if, the commission determines that such rules and regulations are inadequate to ensure the physical fitness of either department, it shall report such inadequacy and make recommendation for improvement therein to the City Council.~~

(Code 1968, § 201.2; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, § 1-22-86; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Ord. No. 174-05/06, 3-6-06)

Sec. 2-59.1. Minimum qualifications for original appointment to the fire department.

(a) Standards required. Each candidate for original appointment to the fire department must meet the minimum requirements set forth in this subsection. The deadline by which these requirements must be met, the method of proving such requirements have been satisfactorily met, and any additional requirements shall be established by rule of the employment subcommittee:

- (1) Age. Have reached the age of twenty-one (21);
- (2) Good character. Be of good character; which includes a personal history of honesty, fairness, and respect for the rights of others and for state and federal law. No person shall be appointed who has a history which includes a disqualifying criminal offense or conviction.
- (3) Education and experience. Have a high school diploma or general equivalency diploma (GED);
- (4) Licensing. Possess a valid State of Maine Emergency Medical Technician license of EMT-B or higher;

- (5) Motor vehicle driver's license. Possess a valid motor vehicle driver's license for the three (3) years immediately preceding the date of application. If such license is from a state other than the State of Maine, the candidate must be qualified to receive a State of Maine driver's license; and
- (6) Citizenship or immigration status. Be a citizen of the United States or eligible to work in the United States.

(b) Automatic disqualifiers. An applicant for original appointment will be automatically disqualified from the hiring process for any of the following characteristics, and as further established by rule of the employment subcommittee:

- (1) Disqualified Individuals. Disqualification from participating in federal funded health care programs under the Social Security Act.
- (2) Criminal Convictions/Conduct. Disqualifying criminal conviction;
- (3) Protection Orders. An active Protection from Abuse or Protection from Harassment Order (temporary or permanent) served on the applicant;
- (4) Military Service. Dishonorable discharge from the military or a bad conduct discharge from the military;
- (5) Tattoos or Body Art. Tattoos, branding, body art or body markings that (a) indicate a criminal gang affiliation, (b) depict sexually explicit art or nudity, (c) are associated with hate groups or supremacist groups such as swastikas, pentagrams, or (d) are on the applicant's face, neck or hands.

Sec. 2-59.2. Hiring process for original appointment to the fire department.

(a) Fire department hiring process. All applicants for original appointment to the fire department shall satisfactorily complete the minimum requirements in this section. The employment subcommittee may, by rule, establish processes and procedures to implement these requirements, may set minimum passing scores, and may impose additional requirements for original appointment.

- (1) Job-related aptitude capacity test. All applicants for original appointment must pass a job-related aptitude capacity test.

(2) *Physical fitness test.* All applicants for original appointment must pass a physical fitness test.

(3) *Oral interview.* All applicants for original appointment must satisfactorily complete an oral interview. The oral interview panel shall consist of one member of the employment subcommittee and designees of the fire chief. No member of the panel may be a candidate for the position nor a relative of a candidate.

(b) *Conditional offer of employment.* Upon successful completion of the job-related aptitude capacity test, the physical fitness assessment and the oral interview, the fire chief may evaluate the candidates and make a conditional offer of employment to qualified applicants, at his or her discretion. The conditional employee must successfully complete the following requirements. Failure to do so will result in revocation of the conditional offer of employment.

(1) *Background check.* All applicants for original appointment must satisfactorily complete a background check, including criminal history, driving record, and credit check.

(2) *Medical examination.* The applicant must satisfactorily complete a medical exam to determine whether the applicant is physically capable of performing the essential functions of the job.

(3) *Job suitability assessment.* The applicant must satisfactorily complete a job suitability assessment.

(c) *Rehire of former fire department member.* In the sole discretion of the fire chief, a fire department member who voluntarily terminated his or her employment on satisfactory terms may be rehired to a vacant, entry-level position within one year of termination without completing the full process required by subsection (a) above. However, the member must satisfactorily complete a new medical examination and job suitability assessment, and must complete a new probationary period.

(d) *Transfer between public safety departments.* Upon the written request of the employee to the chief of his or her department, an employee in good standing within either department may be transferred from one department to the other to an entry level position, subject to the conditions and limitations established by rule of the employment subcommittee and with the approval of both chiefs and the City Manager. Police officers requesting a transfer to the Fire Department must successfully complete the Candidate Physical Abilities Test (CPAT) and provide proof of a valid State of Maine Emergency Medical Technician license. The Chief of Police may waive the police entrance exam for firefighters. All other hiring requirements must be successfully completed.

(e) Waiver. During periods of difficulty in recruitment, the employment subcommittee may vary the requirements of this section by rule, which rule shall not be effective for more than one hiring cycle.

Sec. 2-59.3. Disqualification and temporary withdrawal from fire application process.

In accordance with rules promulgated by the employment subcommittee, an applicant may be disqualified, or temporarily withdraw, from the application process as follows:

(a) Disqualification. After notice and an opportunity to be heard, the employment subcommittee or the fire chief may disqualify an applicant for original appointment.

(b) Temporary withdrawal of applicants for original appointments. An applicant for original appointment may, for sufficient cause, temporarily withdraw from consideration for a limited period of time with the prior approval of the fire chief. During the period of temporary disqualification the applicant's eligibility for appointment shall automatically expire 12 months after the date the applicant passed the aptitude capacity test.

Sec. 2-59.4. Fire department promotional process.

(a) Minimum qualifications. All candidates for promotion within the fire department shall satisfactorily complete the minimum requirements in this section. The employment subcommittee may, by rule, establish processes and procedures to implement these requirements, may set minimum passing scores, and may impose additional requirements for promotion.

(1) Time in service. Promotional candidates must have the following amount of time in service to be eligible for a promotion:

A. Six years of continuous service in the fire department for promotion from firefighter to lieutenant.

B. One year of continuous service as a lieutenant for promotion from lieutenant to captain.

(2) Training. Promotional candidates must possess the minimum amount of training, certification, and/or education for the rank to which he or she is seeking promotion.

(3) Departmental officer candidate program. Promotional candidates must participate in and complete a fire department officer candidate program, which may include job-shadowing, mentorship, and similar requirements.

(4) *Assessment center exam.* Promotional candidates must complete and pass an assessment center exam each year.

(5) *Oral interview.* All promotional candidates must satisfactorily complete an oral interview. The oral interview panel shall consist of one member of the employment subcommittee and designees of the fire chief. No member of the panel may be a candidate for the position nor a relative of a candidate. The president of the union, or his designee, shall have the right to observe, but not participate in, the interview.

(6) *Job suitability assessment.* Candidates must undergo a job suitability assessment. Assessments within three (3) years from the date of examination may be used, or the fire chief may require an updated job suitability assessment at any time. Assessments may be taken into consideration in the promotional process.

(b) *Eligible promotion list.* Promotional candidates shall be placed on a ranked certified promotional list. A separate list shall be made for each promotional rank.

(1) The list shall be ranked based on a methodology established by the employment subcommittee.

(2) The employment subcommittee shall also establish rules governing the validity of the list, including the minimum number of names required on the list, the duration and expiration of the list, and other requirements.

(c) *Promoting from ranked certified promotional list.* Promotions in the fire department shall be made from the ranked certified promotional list in their order of ranking, unless the candidate refuses the promotion, is disqualified for cause by the chief, or lacks the particular skill set required by the promotional vacancy. If the chief disqualifies a candidate for cause, he or she shall state the reasons for disqualification in writing.

(d) *Command staff.* The employment subcommittee may provide by rule for special procedures or different competitive examination for appointment to fire department command staff because such rank requires particular and exceptional qualifications of a scientific, managerial, professional, technical, or educational character and said rule may waive any requirement of this article in such cases.

(e) *Waiver.* When the number of employees eligible for promotion to a particular vacancy is insufficient to permit meaningful competition, the employment subcommittee may vary the requirements of this section by rule, which rule shall not be effective for more than one promotional cycle.

Sec. 2-59.5. Disqualification during fire promotional process.

After notice and an opportunity to be heard, the employment subcommittee or the fire chief may disqualify a candidate from participating in the promotional process, or may remove a candidate for promotion from the ranked certified promotional list.

Sec. 2-59.6. Fire department appeals and rights.

(a) Appeals from decisions of the fire chief. Except as otherwise provided, an applicant, candidate for original appointment, or candidate for promotion shall have the opportunity to appeal any decision made by the fire chief under this division to the employment subcommittee, pursuant to rules established by the subcommittee. The subcommittee may, after hearing, uphold or overturn the fire chief's decision. The subcommittee shall provide the fire chief and the appellant with written notice of its decision and the reasons therefor.

(b) Appeals from decisions of the employment subcommittee. An appeal of a decision of the employment subcommittee under this section may be taken to the city council. The city council may, after hearing, uphold or overturn the employment subcommittee's decision. The council shall provide the subcommittee, fire chief, and appellant with written notice of its decision and the reasons therefor.

(c) Applicant rights. If a decision is overturned with respect to an applicant, the applicant shall continue through the remainder of the application process or be considered eligible for hire, as applicable. In the event an applicant is reinstated pursuant to this section, he or she shall have no right or entitlement to be considered for any vacancy that exists at or prior to the date of said reinstatement.

(d) Promotional candidate rights. If a decision is overturned with respect to a promotional candidate, that candidate shall 1) be allowed to continue through the promotional process; 2) be placed on or reinstated to the ranked certified promotional list; or 3) be promoted, as applicable. The decision maker shall specifically state the appropriate remedy.

(e) Vested rights. No rights shall vest in any person who is deemed to be a qualified applicant or who is placed on the ranked certified promotional list, and no names shall be carried over from one eligible list to another, except as otherwise provided in this section.

(f) Rulemaking. The employment subcommittee may promulgate rules to implement this section, including forms and deadlines for appeal.

Sec. 2-59.7. Fire department probationary period.

(a) Each member who is originally appointed to or rehired in the fire department, or who is promoted, pursuant to this division shall be a probationary employee for one (1) year from the date of appointment or promotion. This section shall not, however, apply to an employee who is recalled after layoff, so long as he or she completed the probationary period prior to layoff.

(b) The fire chief may at any time during the probationary period reject any person appointed or promoted. The fire chief must state his or her reasons for rejection in writing, and provide those reasons to the employee and the employment subcommittee.

(c) In the case of a promotional candidate, any candidate rejected by the fire chief shall revert to the rank and pay status from which he or she was promoted.

(d) Any person rejected during the probationary period shall have no right of hearing or appeal under this division.

Sec. 2-60.1. Minimum qualifications for original appointment to the police department.

(a) Standards required. Each candidate for original appointment to the police department must meet the minimum requirements set forth in this subsection. The deadline by which these requirements must be met, the method of proving that such requirements have been satisfactorily met, and any additional requirements shall be established by rule of the employment subcommittee:

- (1) Age. Have reached the age of twenty-one (21) by the date of appointment;
- (2) Good character. Be of good character; which includes a personal history of honesty, fairness, and respect for the rights of others and for state and federal law. No person shall be appointed who has a history which includes a disqualifying criminal offense or conviction.
- (3) Education and experience. Have a high school diploma or general equivalency diploma (GED) and meet the admission standards of the Maine Criminal Justice Academy.
- (a) (4) Motor vehicle driver's license. Possess a valid motor vehicle driver's license for the three (3) years immediately preceding the date of application. If such license is from a state other than the State of Maine, the candidate must be qualified to receive a State of Maine driver's license.
- (4) Citizenship or Immigration status. Be a citizen of the United States or demonstrate a permanent right to work in the

United States.

(b) Automatic Disqualifiers. An applicant for original appointment will be automatically disqualified from the hiring process for any of the following characteristics, and as further established by rule of the employment subcommittee:

- (1) Criminal Convictions/Conduct. Any conviction for a disqualifying criminal offense or engaging in conduct that qualifies as a disqualifying criminal offense as defined in Maine law and the entrance standards of the Maine Criminal Justice Academy, including having no convictions for or have engaged in any conduct which would constitute Murder, Class A, Class B, Class C, or Class D crimes, or any provision of the Maine Criminal Code, Chapters 15, 19, 25, or 45 which include Theft, Falsification in Official Matters, Bribery & Corrupt Practices, and Drugs.
- (2) Domestic Violence. Any conviction for a crime of domestic violence or any active Protection from Abuse Order (temporary or permanent) served on the applicant.
- (3) Drug Activities. The use, purchase, or possession of illegal drugs or controlled substances within the five (5) years prior to the date of application.

The trafficking in and/or furnishing of marijuana, as defined in the Maine Criminal Code, is an automatic disqualifier from the hiring process. The use of marijuana is not an automatic disqualifier. The use of marijuana by an applicant will be assessed on a case by case basis; including, but not limited to, the frequency and recency of the use.

- (4) Military Service. Dishonorable discharge from the military or a bad conduct discharge from the military.
- (5) Tattoos or Body Art. Tattoos, branding, body art or body markings that (a) indicate a criminal gang affiliation, (b) depict sexually explicit art or nudity, (c) are associated with hate groups or supremacist groups such as swastikas or pentagrams, or (d) are on the applicant's face, neck or hands.

Sec. 2-60.2. Hiring process for original appointment to the police department.

(a) Police department hiring process. All applicants for original appointment to the police department shall satisfactorily complete the minimum requirements in this section. The employment subcommittee may, by rule, establish processes and procedures to implement these requirements, set minimum passing scores, and impose

additional requirements for original appointment.

- (1) *Job-related aptitude capacity test.* All applicants for original appointment must pass a job-related aptitude capacity test. The aptitude capacity test may be waived for a police applicant who is a full-time employee with law enforcement duties and arrest authority in another jurisdiction at the time of application and is certifiable by the Maine Criminal Justice Academy.
- (2) *Physical fitness assessment.* All applicants for original appointment must pass meet the Maine Criminal Justice Academy's physical fitness assessment standards prior to the oral interview. or Applicants may take the fitness test at the Portland Police Department or produce a current, valid letter from the Maine Criminal Justice Academy stating that the applicant has successfully completed the Academy's physical fitness assessment.
- (3) *Oral Board.* An oral interview will be conducted with all applicants who have passed both the aptitude capacity test and the physical fitness assessment.

(b) *Conditional offer of employment.* Upon successful completion of the job-related aptitude capacity test, the physical fitness assessment and the oral interview, the Police Chief may evaluate the candidates and make a conditional offer of employment to qualified applicants, at his or her discretion. The conditional employee must successfully complete the following requirements. Failure to do so will result in revocation of the conditional offer of employment.

- (1) *Background check.* A conditional employee must be fingerprinted and satisfactorily complete a background check, including, but not limited to, criminal history, prior substance abuse, driving record, and credit check.
- (2) *Polygraph.* A conditional employee, shall be required to submit to a polygraph examination to the extent such examination is permitted by law.
- (3) *Medical examination.* A conditional employee shall undergo a medical examination to determine whether the applicant is physically capable of meeting the standards established by the Maine Criminal Justice Academy.
- (4) *Job suitability assessment.* Candidates for police original appointment shall be given a post-offer job suitability assessment as required by the Maine Criminal Justice Academy.

(b) *Transfer between public safety departments.* Upon the written request of the employee to the chief of his or her department, an employee in good standing within either department may be transferred

from one department to the other to an entry level position, subject to the conditions and limitations established by rule of the employment subcommittee and with the approval of both chiefs and the City Manager.

Police officers requesting a transfer to the Fire Department must successfully complete the Candidate Physical Abilities Test (CPAT) and provide proof of a valid State of Maine Emergency Medical Technician license. The Chief of Police may waive the police entrance exam for firefighters. All other hiring requirements must be successfully completed.

Sec. 2-60.3. Disqualification and temporary withdrawal from police application process.

In accordance with rules promulgated by the employment subcommittee, an applicant may be disqualified, or temporarily withdraw, from the application process as follows:

(a) Disqualification. After notice and an opportunity to be heard, the employment subcommittee or the police chief may disqualify an applicant for original appointment.

(b) Temporary withdrawal of applicants for original appointments. An applicant for original appointment may, for sufficient cause, temporarily withdraw from consideration for a limited period of time with the prior approval of the police chief. During the period of temporary disqualification the applicant's eligibility for appointment shall automatically expire 12 months after the date the applicant passed the aptitude capacity test.

Sec. 2-60.4. Police department promotional process.

(a) Minimum qualifications. All candidates for promotion within the police department shall satisfactorily complete the minimum requirements in this section. Promotional appointments shall be made from successive ranks. The employment subcommittee may, by rule, establish processes and procedures to implement these requirements, may set minimum passing scores, and may impose additional requirements for promotion.

(1) Time in service. Promotional candidates must have the following amount of time in service to be eligible for a promotion:

- A. Three (3) years of continuous service in the police department for promotion from officer to the rank of Sergeant.
- B. Twelve months of continuous service as a Sergeant in the police department for promotion to the rank of Lieutenant.

(2) Selection Components

- A. An annual professional development course.
- B. A job-related aptitude capacity test.
- C. Consideration of the candidate's last completed performance evaluation immediately prior to the date of the aptitude capacity test.
- D. Seniority in the department as of the date of the aptitude capacity test.

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(3) Oral interview. All promotional candidates must satisfactorily complete an oral interview. The oral interview panel shall consist of one member of the employment subcommittee, a member designated by the president of each of the affected unions and three (3) members appointed by the police chief.

(4) Job suitability assessment. Candidates for the position of Sergeant must undergo a job suitability assessment. Assessments within three (3) years from the date of examination may be used, or the police chief may require an updated job suitability assessment at any time. Assessments may be taken into consideration in the promotional process.

(b) Promotion list. Promotional candidates shall be placed on a ranked certified promotional list. A separate list shall be made for each promotional rank.

(1) The list shall be ranked based on a methodology established by the employment subcommittee.

(2) The employment subcommittee shall also establish rules governing the validity of the list, including the minimum number of names required on the list, the duration and expiration of the list, and other requirements.

(c) Promoting from ranked certified promotional list. Promotions in the police department shall be made from the ranked certified promotional list in the order of ranking, unless the candidate refuses the promotion, is disqualified for cause by the police chief, or lacks the particular skill set required by the promotional vacancy. If the police chief disqualifies a candidate for cause, he or she shall state the reasons for disqualification in writing. The minimum and maximum number of names on the certified list shall be established by subcommittee rule.

(d) Command staff. The employment subcommittee may provide by rule for special procedures or different competitive examination for

appointment to a sworn, non-union command staff position in the police department because such rank requires particular and exceptional qualifications of a scientific, managerial, professional, technical, or educational character and said rule may waive any requirement of this article in such cases.

(e) When the number of employees eligible for promotion to a particular vacancy is insufficient to permit meaningful competition, the employment subcommittee may vary the requirements of this section by rule, which rule shall not be effective for more than one promotional cycle.

Sec. 2-60.5. Disqualification during police promotional process.

After notice and an opportunity to be heard, the employment subcommittee or the police chief may disqualify a candidate from participating in the promotional process, or may remove a candidate for promotion from the ranked certified promotional list.

Sec. 2-60.6. Police appeals and rights.

(a) Appeals from decisions of the police chief. Except as otherwise provided, an applicant, candidate for original appointment, or candidate for promotion shall have the opportunity to appeal any decision made by the police chief under this division to the employment subcommittee, pursuant to rules established by the subcommittee. The subcommittee may, after hearing, uphold or overturn the police chief's decision. The subcommittee shall provide the police chief and the appellant with written notice of its decision and the reasons therefor.

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(b) Appeals from decisions of the employment subcommittee. An appeal of a decision of the employment subcommittee under this section may be taken to the city council. The city council may, after hearing, uphold or overturn the employment subcommittee's decision. The council shall provide the subcommittee, police chief, and appellant with written notice of its decision and the reasons therefor.

(c) Applicant rights. If a decision is overturned with respect to an applicant, the applicant shall continue through the remainder of the application process or be considered eligible for hire, as applicable. In the event an applicant is reinstated pursuant to this section, he or she shall have no right or entitlement to be considered for any vacancy that exists at or prior to the date of said reinstatement.

(d) Promotional candidate rights. If a decision is overturned with respect to a promotional candidate, that candidate shall 1) be allowed to continue through the promotional process; 2) be placed on or reinstated to the ranked certified promotional list; or 3) be promoted, as applicable. The decision maker shall specifically state the appropriate remedy.

(e) *Vested rights.* No rights shall vest in any person who is deemed to be a qualified applicant or who is placed on the ranked certified promotional list, and no names shall be carried over from one eligible list to another, except as otherwise provided in this section.

(f) *Rulemaking.* The employment subcommittee may promulgate rules to implement this section, including forms and deadlines for appeal.

Sec. 2-60.7. Police department probationary period.

(a) *Probationary period.* A specified period of time during which the employee has no expectation of continued employment and may be removed from employment for any reason, with or without just cause.

(b) *Original appointment.* Except as otherwise provided below for police lateral transfers, every person receiving an appointment as a police officer shall be a probationary employee for a period of two (2) years from the date of appointment.

(c) *Lateral transfers.* A police lateral transfer who has two years of post-academy, full-time, continuous service as a police officer at the time of appointment shall be credited with up to twelve (12) months of service toward completion of the department's two year probationary period. Eligibility for promotional appointment shall be the completion of three (3) years of service in the Portland Police department.

(d) *Promotional appointments.* Every person receiving a promotional appointment shall serve a probationary period of one (1) year while occupying the position to which he or she has been appointed.

(e) *Completion of probationary period.* The police chief may at any time during the probationary period reject any person appointed or promoted to a position in the police department. The police chief must state his or her reasons for rejection in writing, and provide those reasons to the employee and the employment subcommittee. In the case of a promotional appointment, the officer shall revert to the rank and pay status from which he or she was promoted.

(f) *No hearing or appeal.* Any person rejected during the probationary period shall have no right of hearing or appeal under this section.

Sec. 2-59. Minimum qualifications for appointments.

(a) *Standards required.* All candidates for appointment shall meet the minimum requirements set forth in this section and any additional requirements set forth hereafter or in the rules of the employment

~~subcommittee not inconsistent herewith.~~

~~(b) Original appointments:~~

- ~~(1) Good character. Each candidate for original appointment shall be of good moral character and shall in all cases bear the burden of proof as to this requirement. No person shall be appointed who has a history which includes a disqualifying criminal conviction.~~
- ~~(2) Education and experience. Applicants must have a high school diploma or equivalency degree and have either: three (3) years of post-high school employment experience(s) or three (3) years of education in a post-high school program at a school, college, or university; or any combination of post-high school employment experience and post-high school education totaling three (3) years.~~
 - ~~a. Police applicants. To the extent and in the manner required by subcommittee rule, applicants for police original appointment shall submit evidence of passing the ALERT test.~~
 - ~~b. Fire applicants. Applicants who wish to be considered for the position of firefighter/paramedic must be certified as a paramedic prior to being sent to the department on an eligible list and must be licensable as a paramedic in the State of Maine prior to appointment. An applicant may notify the Director of Human Resources that he or she is certified as a paramedic after placement upon an eligible list so that he or she may be considered for either a firefighter or firefighter/paramedic vacancy for the life of that list.~~
- ~~(3) Motor vehicle driver's license. Each candidate for original appointment shall possess a valid motor vehicle driver's license. If such license is from a state other than the State of Maine, the candidate must not be disqualified from issuance of a State of Maine driver's license.~~
- ~~(4) Health. Candidates for original appointment shall be in good health and shall be subject to a fitness assessment, and a post-offer medical examination, and in the case of police, a job suitability assessment, pursuant to the rules of the employment subcommittee. Such rules shall be developed in consultation with appropriate professionals and the chief of the department and, to the extent permitted by law, shall be determined by the employment subcommittee to be bona fide occupational requirements for appointment.~~
- ~~(5) Citizenship.~~

~~a. Police. Each candidate for original appointment to the police department shall be a citizen of the United States.~~

~~b. Fire. Each candidate for original appointment to the fire department shall either be a citizen or provide proof of eligibility to work in the United States.~~

~~(c) Promotional appointments:~~

~~(1) Promotion from successive ranks.~~

~~a. Police. Promotional appointments shall be made from successive ranks. No candidate shall be eligible for examination for his or her first promotional appointment until he or she shall have served a minimum of three (3) continuous years as a member in the department by the date of the written examination. No candidate shall be examined for a promotion to any other rank after the first promotion, until he or she shall have served a minimum of twelve (12) continuous months in the next lowest rank by the date of the written examination.~~

~~b. Fire lieutenant; fire/paramedic lieutenant.~~

~~i. Members hired prior to January 1, 1997: Promotional appointments shall be made from successive ranks within each division of suppression and emergency medical services and the time in service requirement shall mean time as a member in the division.~~

~~ii. Members hired on or after January 1, 1997: Promotional appointments may be made between the suppression and emergency medical services divisions and the time in service requirement shall mean time as a member in the department.~~

~~iii. Time in service requirements:~~

~~1. A member of the fire department hired prior to January 1, 1997, shall be eligible for examination for his or her first promotional appointment only after serving four (4) cumulative years as a member in the division in which promotion is sought; and~~

~~2. A member of the fire department hired on or after January 1, 1997, but prior to January 1, 2002, shall be eligible for examination for his or her first promotional appointment after serving four (4) continuous years in~~

~~the department;~~

~~3. A member of the fire department hired on or after January 1, 2002, shall be eligible for examination for his or her first promotional appointment only after serving six (6) continuous years as a member in the department.~~

~~4. To be eligible for promotion, the member must complete the time in service requirement by the date of the written examination.~~

~~c. Fire Captain; Fire/Paramedic Captain. After the first promotion, a member shall be eligible for further promotion only after serving a minimum of twelve (12) continuous months in the next lowest rank within the division in which promotion is sought, such time in service requirement to be met by the date of the written examination.~~

~~d. Licensing. Any member promoted to an emergency medical services position must maintain his or her paramedic license in Maine as a condition of employment in that position.~~

~~(2) Other promotional appointments. Upon recommendation of the City Manager, the employment subcommittee may provide by rule for special procedures or different competitive examination for eligibility for appointment to second in command in the fire department or the police department since such rank requires particular and exceptional qualifications of a scientific, managerial, professional, technical, or educational character and said rule may waive any requirement of this article in such cases.~~

~~(d) Waiver. During periods of difficulty in recruitment, or when the number of employees eligible for promotion to a particular vacancy is insufficient to permit meaningful competition, the employment subcommittee may vary the requirements of this section 2-59 of subparagraphs (c) (1) a., b. or c. by rule, which rule shall not be effective for more than ninety (90) days.~~

~~(e) Rehire of former member by the same department. A former member of a department may be rehired by that department to an entry level position only upon a regular appointment in the manner set forth for an original appointment and such person shall be required to serve a new working test period of twelve months. In the case of re-hire in the police department, the member shall not be eligible for promotion until after completion of three (3) years of service in the police department after date of rehire. Solely in the case of a former firefighter or firefighter/paramedic who is rehired by the fire~~

~~department, upon completion of the new working test period, said firefighter or firefighter/paramedic shall be credited with the actual amount of time served in the fire department in the position to which they are being rehired, said time to be credited solely toward fulfillment of the minimum period prior to eligibility for promotion. The date of re-hire shall serve as the date of hire for purposes of determining the applicable minimum service requirement prior to promotion in the fire department.~~

~~(f) *Transfers between departments.* Upon the written request of the member to the chief of his or her department, a member in good standing within either department may be transferred from one (1) department to the other to an entry level position, subject to the following conditions and limitations:~~

- ~~(1) Both chiefs and the City Manager have approved said transfer;~~
- ~~(2) The employment subcommittee has determined that the member meets the minimum qualifications for original appointment into the new department set forth in this section and the rules of the employment subcommittee establishing physical standards for said new department;~~
- ~~(3) The benefits and wages of any member who is transferred under this subsection shall be determined prior to transfer, subject to any applicable collective bargaining agreements in effect, and/or to the agreement of the collective bargaining agent or agents;~~
- ~~(4) The implementation and scheduling of all transfers, once approved, shall be wholly discretionary with the City Manager;~~
- ~~(5) There shall be no right of appeal of any determination or decision of the chiefs or the City Manager which is made under this subsection;~~
- ~~(6) Any member requesting a transfer may be required to take a polygraph examination and a job suitability assessment to the extent required of original appointments;~~
- ~~(7) All transferees shall be required to serve a working test period as provided in section 2-67 below and must serve the minimum time required for eligibility for promotion as provided in this section 2-59(c)(1) above, except that the date of transfer shall serve as the date of hire.~~
- ~~(g) *Reinstatement after voluntary termination.*~~
- ~~(1) *Entry level positions.* If a person holding the rank of police officer, firefighter or firefighter/paramedic, who has completed his or her working test period in the department,~~

~~voluntarily terminates his or her employment in good standing, such member may, within thirty (30) calendar days from the effective date of the termination, request reinstatement to his or her former position. Such request shall be made in writing to the chief of the department, who shall forward such request with a recommendation thereon to the City Manager. The City Manager may, in his or her absolute discretion, grant or deny such request for reinstatement.~~

~~(2) Promotional positions. If a person holding a rank above police officer, firefighter or firefighter/paramedic voluntarily terminates his or her employment in good standing, such member may, within thirty (30) calendar days from the effective date of termination, request reinstatement to an entry level position in the department from which they terminated. Such request shall be made in writing to the chief of the department who shall forward such request with a recommendation thereon to the City Manager. The City Manager may, in his or her absolute discretion, grant or deny such request for reinstatement.~~

~~(3) Effect of reinstatement. Persons holding the rank of police officer, firefighter or firefighter/paramedic who are reinstated pursuant to this section and for whom a vacancy exists shall be afforded the rank, pay, grade and benefits previously held, except as otherwise provided in this section. Persons holding a rank above police officer, firefighter or firefighter/paramedic who are reinstated pursuant to this section and for whom a vacancy exists shall be returned to the rank of police officer, firefighter or firefighter/paramedic and shall be afforded a pay grade and benefits commensurate with the appropriate number of years served in the department. This subsection shall not be construed to mean that pay and benefits shall accrue during the period of separation from the department, nor during any periods of inactive duty such as those set forth in subsection (4) hereinafter. No accrued leave, sick leave, or other benefits for which the member was compensated upon termination shall be credited or restored to the member, unless such compensation is fully repaid by the member and accepted by the city. Retirement benefits shall be credited upon repayment as provided by governing law.~~

~~(4) Waiting list. In those cases where no immediate vacancy exists at the time the privilege of reinstatement is granted, the member may be appointed to the first available vacancy declared by the City Manager; provided such vacancy is declared within six (6) months from the date of the reinstatement request. In the event that no vacancy is declared within said six month period, the grant of reinstatement shall expire and the former member may be~~

~~reinstated only upon a regular appointment in the manner set forth for original appointments under this division.~~

- ~~(5) No expectancy. Nothing in this section shall be construed as creating or implying a right or expectancy of future employment in any member who voluntarily terminates his or her employment.~~

~~(h) Temporary emergency medical services appointments. Persons may be appointed from the entry level fire eligible list to a firefighter/paramedic position on a temporary basis, up to a maximum of twelve (12) months, to fill in for a leave of absence or for other similar reason as determined by the City Manager. The chief shall request a list of candidates who wish to be considered for such temporary appointment, such list to be made up in alphabetical order from the eligible list from those persons who are paramedic certified and who wish to be considered for a temporary appointment. The names of all those meeting the conditions shall be sent to the chief. Any person on the eligible list may decline to be placed on a list for temporary appointment and such person shall remain on the eligible list without prejudice to his or her opportunity to be considered for permanent appointment. Prior to appointment to a temporary position, the candidates shall undergo an oral interview in a form determined by the chief, background investigation and the fitness test contained in the firefighter collective bargaining agreement, but shall not be required to undergo the oral board, medical examination, physical fitness assessment in sections 2-65 and 2-66 below. A person who is appointed to a temporary position hereunder continues to be eligible for permanent appointment during the time of such temporary appointment. Such person is also subject to removal by the fire chief from the temporary position at any time for reasons stated in writing to the employee, the civil service commission and the Director. Removal from the position shall be treated in the same manner as removal during the working test period under section 2-67; further, such removal shall be deemed to be a disqualification resulting in removal from the eligible list pursuant to section 2-61(b) below. The person shall have the right to appeal removal from the eligible list only, as provided in section 2-61(b). Except as provided in section 2-61(c) below, in the event the eligible list from which the person was temporarily appointed has expired at the time of removal from, or expiration of, the temporary appointment, said person shall not be placed on a new eligible list, unless that person took and passed the examination for that new list. Time served as a temporary hereunder shall not count toward completion of the working test period nor for seniority for promotion unless such person is appointed to the position permanently with no break in service, in which case such time shall be counted. Any permanent appointment of a person who has had a temporary appointment shall be made only after completion of all of the hiring requirements for permanent appointment.~~

~~(i) Emergency appointments. During times of emergencies affecting the health, safety and welfare of the public as declared by the City~~

~~Council, all provisions of this division with respect to appointments to both departments shall be suspended until such time as the City Council shall declare the emergency terminated. Appointments to both departments during such periods of declared emergency shall be made by the City Manager and shall be effective only during the period of the declared emergency.~~

~~(j) Consolidation of firefighting and emergency medical services.~~

~~(1) In general. Effective January 1, 1997, firefighting and emergency medical services were merged within the fire department as provided herein. In addition to the fire suppression ranks of deputy fire chief, fire captain, fire lieutenant and firefighter, there is a rank of deputy fire chief for emergency medical services, fire/paramedic captain, fire/paramedic lieutenant, and firefighter/paramedic. The position of paramedic was reclassified to that of firefighter/paramedic and that of paramedic lieutenant to that of fire/paramedic lieutenant, except as provided below for grandfathered employees, and each such new classification shall include full training in firefighting.~~

~~(2) "Grandfathering" of paramedics. Paramedics who do not choose to take the firefighter examination, or who take it but do not pass it, will be grandfathered in the position held on January 1, 1997, so long as there is no break in service. Grandfathered paramedics can take the firefighter examination at any time it is offered after the spring of 1997, but are subject to all of the conditions and requirements for original appointment prior to reclassification as a firefighter/paramedic.~~

~~(3) Elimination of paramedic positions. Paramedic positions will be eliminated as they become vacant.~~

~~(Code 1968, § 201.8; Ord. No. 89-80, 7-7-80; Ord. No. 292-80, 11-3-80; Ord. No. 294-80, 11-8-80; Ord. No. 433-82, § 2, 3-15-82; Ord. No. 299-86, 1-22-86; Ord. No. 325-88, 3-23-88; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Ord. No. 220-99, § 1, 3-1-99; Ord. No. 121-00, 12-20-99; Ord. No. 174-05/06, 3-6-06; Ord. No. 298-05/06, 6-19-06 emergency passage; Ord. No. 126-09/10, 1-4-10)~~

~~**Sec. 2-60. Applications.**~~

~~(a) Summary. Appointments to a position in the police or fire department shall be made only after completion of an application and passing a job related aptitude capacity test, placement upon an eligible list, and satisfactory completion of all other hiring requirements of this subchapter for appointment.~~

~~(b) Forms. Applications for appointment shall be made on forms prepared by the Director and approved by the employment subcommittee. All applications shall be accompanied by such certifications and other satisfactory evidence as to character, education, and if applicable, citizenship, as the employment subcommittee may establish by rule, or~~

~~which the employment subcommittee may reasonably require of any particular applicant to satisfy itself of compliance with the minimum requirements of this division for eligibility. All applications shall be accompanied by a written waiver of rights with respect to the state criminal history record information act (16 M.R.S.A. § 611 et seq.), sufficient to permit the chief of the department and the members of the employment subcommittee to gain access to such records.~~

~~(c) Duration. Applications shall be valid only for the next examination, except that in the case of applications for police original appointment, such applications shall be valid for 180 days and may be accepted at the police department on the same day as the on-line test.~~

~~(Code 1968, § 201.9; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Ord. No. 121-99, 12-20-99; Ord. 174-05/06, 3-6-06)~~

~~Sec. 2-61. Disqualification of candidates for original appointment by employment subcommittee; by chief.~~

~~(a) Disqualification by employment subcommittee. The employment subcommittee may exclude any candidate for original appointment from any component of the hiring process, including the aptitude capacity test, refuse to certify him or her as eligible, remove him or her from any list upon sufficient evidence which demonstrates unfitness for duty, that there was a false statement made of a material fact on the application or during the hiring process, or that there was cheating during the hiring process or where there has been a conviction for a crime, or where there has been excessive or illegal use of intoxicating liquors or drugs, or that the candidate is otherwise ineligible for appointment. Any candidate proposed to be excluded from any component of the hiring process or removed from any list shall be provided an opportunity to be heard prior to final action by the employment subcommittee.~~

~~(b) Disqualification by chief. The chief of the department may disqualify applicants for original appointment for failure to pass the polygraph examination, the background check or the physical fitness assessment or for reasons related to a temporary appointment under section 2-59(h) above or upon the unanimous recommendation of the oral interview board that the person not be further considered for appointment and stating the reasons for such recommendation. The chief of the department may accept, reject or modify such recommendation.~~

~~Written notice of said disqualification, and the reasons therefor, shall be provided to the applicant by such method as is specified by employment subcommittee rule, with copies thereof sent to the subcommittee and the Director. Upon disqualification by the chief, the applicant's name shall be removed from any list on which it appears. The applicant shall have the opportunity to appeal said disqualification to the employment subcommittee, which shall hold a hearing thereon, after which the subcommittee may uphold the disqualification or reinstate the person to the eligible list. The~~

~~subcommittee shall provide the chief and the applicant with written notice of its decision and the reasons therefor.~~

~~(c) Reinstatement to list. If an applicant for original appointment is disqualified or removed from an eligible list by the employment subcommittee or by the chief of the department, and he or she appeals that decision and said appeal is resolved in favor of the applicant, he or she shall be reinstated to the eligible list on the basis of his or her original grade. In the event that the eligible list from which the applicant was disqualified has expired, and the applicant is not on the succeeding list in effect at the time of reinstatement, then the applicant shall be placed upon said list in effect at the time of reinstatement.~~

~~In the event an applicant is reinstated hereunder, said applicant shall have no right or entitlement to be considered for any vacancy which exists at or prior to the date of said reinstatement provided, however, that he or she shall have the same rights as any other applicant to be considered for any vacancy which is authorized to be filled on or after the date of reinstatement. The applicant shall be entitled to stay on any eligible list on which he or she is placed hereunder until the list expires or until the applicant voluntarily withdraws, is removed for cause or is hired. In the case of disqualification from a police entry level eligible list only, the applicant, if reinstated, shall be reinstated to the list only so long as required to complete a total of twelve (12) months on the list from the date of initial placement on the list.~~

~~(d) Rules. The subcommittee shall provide rules governing the exercise of the power of removal or appeal therefrom, including the method of notice to be given under this section.~~

~~(Code 1968, § 201.10; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 86-90, § 1, 9-5-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Ord. No. 121-99, 12-20-99; Ord. No. 174-05/06, 3-6-06)~~

~~Sec. 2-62. Examinations.~~

~~(a) Aptitude capacity test. A job-related aptitude capacity written test to measure the skills and ability of the candidates for each rank of the police and fire departments shall be developed or recommended by the chief of the department and the director and approved by the employment subcommittee.~~

~~(b) Holding of aptitude capacity tests. The aptitude capacity test in each department shall be held annually for each rank, except as follows:~~

- ~~(1) The test for entry level firefighter and firefighter/paramedic positions shall be held every two (2) years. The same aptitude capacity test shall be used for both the entry level firefighter and entry level firefighter/paramedic position, with the creation of a single eligible list, with paramedic certification~~

~~noted on the list. Such certification may be provided at any time during the life of the eligible list, but must be provided prior to an applicant's name being sent to the chief on an eligible list for a firefighter/paramedic position;~~

~~(2) The test for entry level police officer shall be an online test to be held as frequently as determined necessary by the police chief after consultation with the director or his or her designee. Each applicant may take the test up to twice in any rolling six month period, i.e. an applicant may take the test on January 15 and again on March 15, but not again until September 16. The applicant may not re-take the test while on the eligible list; and~~

~~(3) Police captain tests shall be held only after the city manager has declared a vacancy in such position and authorized that it be filled.~~

~~(c) Waiver of aptitude capacity test.~~

~~—— (1) Police entry level lateral transfers. The entry level aptitude capacity test may be waived for any police applicants for original appointment who are full-time sworn officers in another jurisdiction at the time of application and are certifiable by the Maine Criminal Justice Academy (referred to as "lateral transfers"). Evidence satisfactory to the police chief of such status must be provided by the applicant at the time of application and is subject to the approval of the chief. In the event of any dispute as to such waiver, the police chief shall make a final determination as to waiver and such determination shall be within his discretion and shall not be subject to appeal. In no event shall any such dispute delay or prevent giving the test as scheduled. Persons approved for a lateral transfer shall be added to an existing police entry level eligible list in alphabetical order upon the chief's approval and their status as sworn officers shall be noted on the list and the date of their placement on the list shall be included. The chief, at his or her option, may request a list consisting solely of all persons who are sworn officers to fill one or more vacancies prior to, or in place of, requesting the full eligible list.~~

~~—— (2) The chief of either department may notify the director of human resources that it is not necessary to hold an aptitude capacity test because of lack of anticipated vacancies in that rank and, in the case of promotional tests, all affected unions agree in writing to said waiver.~~

~~(d) Additional fire entry level aptitude capacity tests. In addition to the foregoing, the chief of the fire department may request that an entry level aptitude capacity test be held prior to expiration of an eligible list and that candidates who pass said test be added in alphabetical order to the existing entry level eligible list. Said list, including any names added to such list during its life, shall expire at the original applicable time, unless extended as provided below. Candidates on the original entry level list shall not be eligible to re-take the test. The chief may request an additional entry level test for either suppression or for emergency medical services or for both;~~

~~(e) Additional tests needed. In addition to the foregoing, the chief of either department may request that an aptitude capacity test be held more frequently than provided herein or after waiver under subsection (c)(2) above if either (i) the eligible list has expired pursuant to section (f) below, or (ii) it is anticipated that test will be needed in order to fill anticipated or actual vacancies. The director shall notify the chief of the department of an intent to hold the test no less than ten (10) calendar days prior to advertising said test. An existing eligible list, if any, shall terminate as of the date set by the employment subcommittee, unless names are to be added to an existing entry level list as provided in subsection (d) above. The foregoing shall not apply to the police entry level only test which may be held as needed.~~

~~(f) Notice. Applications for testing may be solicited at any time by the director. All such solicitations of applications shall be publicly advertised and held open for a minimum of fourteen (14) calendar days. In addition to, or in lieu of, the foregoing, applications for police entry level original appointment or entry level lateral transfers may be taken at any time or on an ongoing basis.~~

~~(g) Administration of aptitude capacity test. Except in the case of the police entry level test, the aptitude capacity test shall be administered by the director during which at least one subcommittee member will be available by telephone to assist the director if necessary. The police entry level test will be an online test administered by the police chief or his or her designee, with the director available by telephone to assist if necessary.~~

~~(Ord. No. 174-05/06, 3-6-06)~~

~~Sec. 2-63. Eligible list.~~

~~(a) Establishing an eligible list. The selection components used in the process to establish an eligible list shall be impartial and relate to the subjects which, in the opinion of the employment subcommittee, appropriately measure relative capacity of the persons examined to effectively carry out the duties and responsibilities of the position to which they seek to be appointed. Such components shall include:~~

~~(1) Original appointments.~~

- ~~a. The eligible list for police original appointment will be created based upon a job-related aptitude capacity with a passing score of 70.~~
- ~~b. Firefighter and firefighter/paramedics. The eligible list for fire original appointment will be created based upon a job-related aptitude capacity test with a passing score of 70.~~

~~(2) Promotional appointments.~~

- ~~a. Police. The eligible list for promotional appointment will be created based upon the following components:
 - ~~i. A job-related aptitude capacity test with a passing score of 70.~~
 - ~~ii. The candidate's last complete performance evaluation rating immediately prior to the date of the announcement of taking of applications for the written examination; and~~
 - ~~iii. Seniority in the department as of the date of the written examination.~~~~
- ~~b. Fire. The eligible list for promotional appointments will be created based upon the following components:
 - ~~i. A job-related aptitude capacity test with a passing score of 70.
 - ~~A. a basic subsection on supervision and management;~~
 - ~~B. a subsection on advanced fire suppression; and~~
 - ~~C. a subsection on advanced pre-hospital medical care skills.~~~~~~

~~The same aptitude capacity test shall be used for either a suppression or emergency medical services promotional rank, with the creation of a suppression list and an emergency medical services list based upon the combined score of subsections A and B for suppression and subsections A and C for emergency medical services.~~

- ~~ii. For employees hired prior to January 1, 2002, a base score of thirty (30); or~~
- ~~iii. Effective July 1, 2005, for employees hired on or after January 1, 2002, a base score of up to a~~

~~maximum of 30, based upon completion of officer candidate school modules, which modules and base score shall be subject to approval by the employment subcommittee, after recommendation from the fire chief; and~~

~~iv. Seniority in the department as of the date of the written examination.~~

~~v. A member of the fire department who wishes to be considered for either a suppression or an emergency medical services promotion from the same examination must take and pass subsection A as well as both subsections B and C. Further, in order to take subsection C, a member must provide evidence of paramedic licensure in the state of Maine at the time of application. In the event a member takes both subsections B and C, but only passes one subsection (in addition to subsection A)2, the member shall be included only on the eligible list for the subsection which he or she passed.~~

~~(b) Scoring.~~

~~(1) In general. The scores of the aptitude capacity test shall be determined by an impartial scorer and delivered to the director who shall draw up and maintain the eligible list(s).~~

~~(2) Original appointment. All applicants with a grade of 70 or above will be placed upon the eligible list in alphabetical order, with no numeric ranking. In the case of the police entry level eligible list, the date the applicant passed the test shall be posted on the list for the purpose of calculating the applicant's twelve months of eligibility under subsection (e)(2) below.~~

~~a. Promotional appointment. The passing score on the aptitude capacity test is seventy (70). An applicant's position on the eligible list will be determined as provided below. Each component of the promotional examination shall be scored separately.~~

~~(1) Police promotional scoring. A police applicant's position on the eligible list will be determined by the~~

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~~[1] Editor's Note So in original, Ord. No. 89-02/03, 11-4-02; but the passing score for the eligible list for each division is determined by the combined score of subSS A+B or subSS A+C, as applicable. See S2-63(a)(2)b.i., and S2-63(b)(3)b.~~

~~[2] Editor's Note So in original, Ord. No. 89-02/03, 11-4-02; but the passing score for the eligible list for each division is determined by the combined score of subSS A+B or subSS A+C, as applicable. See S2-63(a)(2)b.i., and S2-63(b)(3)b.~~

~~weighted sum of his or her score on the aptitude capacity test and the performance evaluation, plus seniority points. The score of the aptitude capacity test shall be given fifty (50) percent weight and the performance evaluation ratings shall be given forty (40) percent weight in relation to the total grade. Seniority will be calculated as one-half point for each year of service in the department up to a maximum of ten (10) points and added to the weighted scores of the test and the performance evaluation.~~

- ~~(2) Fire promotional scoring. A fire applicant's position on the eligible list will be determined by the weighted sum of his or her score on the aptitude capacity test and the base score, plus seniority points. Each subsection of the aptitude capacity test will be scored separately and there will be a separate eligible list for suppression promotions and for emergency medical services promotions. The score for subsection A will be added to subsection B to give an aptitude capacity test score for suppression, and the score for subsection A will be added to subsection C to give an aptitude capacity test score for emergency medical services. This combined score of the aptitude capacity test (A+B or A+C) shall be given sixty (60) percent weight and the base score will be given 30 percent weight. Seniority will be calculated as one-half point for each year of service in the department up to a maximum of ten (10) points and added to the weighted scores of the test and the base score. The performance evaluation ratings shall not be scored, but may be taken into consideration by the chief prior to appointment. Effective July 1, 2005, for employees hired on or after January 1, 2002, the base score of 30 will be replaced by the base score of up to 30 based upon the score for completion of the officer candidate school modules.~~

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~~(c) Performance evaluations. The chief of each department shall develop the form of the performance evaluation record which shall be used by the police and fire departments, provided that such performance evaluation shall include an evaluation by the member's immediate superior or, in the absence of the immediate superior, by a superior officer having personal and substantial knowledge of the member's performance, and the form of each evaluation shall be approved by the employment subcommittee.~~

~~(d) Seniority. Seniority in the department means total time served as a member of the department, and in addition in the police department, it includes time served as a police cadet to the extent provided by subcommittee rule.~~

~~(e) Duration of eligible lists.~~

~~(1) Except as provided for the police entry level eligible list, each eligible list shall be in effect for the following time period after the date on which it is first drawn up by the Director:~~

~~a. Firefighter and firefighter/paramedic original appointment: 2 years;~~

~~b. Fire lieutenant or captain appointment: 1 year; and~~

~~c. Police sergeant, lieutenant or captain appointment: 1 year.~~

~~(2) The police entry level eligible list shall be a continuous list with persons being added and deleted, and shall not have an end date, but each person shall be placed upon the list by the director immediately upon passing the test and shall stay on the list for twelve (12) months from the date of such passage. The person's date of passage of the test shall be included on the list and that person's eligibility for appointment shall automatically expire 12 months after such date. By way of example, a person who passed the test on January 17, 2006, would be eligible to be considered for appointment through January 16, 2007.~~

~~(3) No more than one eligible list for a given rank shall be in effect at the same time. No rights shall vest in any person who is on an eligible list, and no names shall be carried over from one eligible list to another, except as provided in section 2-61(c) of this article.~~

~~(Code 1968, § 201.11; Ord. No. 89-80, 7-7-80; Ord. No. 293-80, 11-3-80; Ord. No. 10-84, 6-25-84; Ord. No. 299-86, 1-22-86; Ord. No. 31-87, §§ 1-3, 9-9-87; Ord. No. 288-90, 4-2-90; Ord. No. 86-90, § 2, 9-5-90; Ord. No. 138-92, §§ 1, 2, 10-19-92; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Ord. No. 220-99, § 2, 3, 3-1-99; Ord. No. 121-99, 12-20-99; Substitute Ord. No. 83-01/02, § 1, 2, 11-5-01; Ord. No. 174-05/06, 3-6-06)~~

~~**Sec. 2-64. Eligibility list for original appointment; Certified list for promotional appointment.**~~

~~(a) Eligible list provided for original appointment. When requested to do so by the city manager, the employment subcommittee through the director shall furnish the eligible list of names from which an original appointment may be made.~~

~~(1) Original appointment.~~

~~a. Fire. The list for original appointment shall contain the names of all the applicants on the eligible list in alphabetical order, with no numeric ranking, except the list for a firefighter/paramedic vacancy shall include only the names of those who have provided evidence to the fire chief of paramedic certification prior to the time the list is requested by the department.~~

~~b. Police. The list for original appointment shall contain the names of all the applicants on the eligible list in alphabetical order, with no numeric ranking. Unless the chief only requests the sworn police officers on the list, the eligible list for police original appointment shall include the names of all those who are on the eligible list as of the date the director provides the list to the department to begin the hiring process. Police entry level testing may continue during the hiring process and if the chief cannot fill the vacancies from the list sent over by the director, he or she may request that any additional names be sent over as a supplemental list until such time as all vacancies are filled. Applicants whose 12 months elapse while they are actively participating in the hiring process may continue in the hiring process until it is completed, but will be removed from the eligible list upon completion of that hiring process.~~

~~(b) Certified list for promotional appointment. When requested to do so by the city manager, the employment subcommittee through the director shall furnish a certified list of names from which a promotional appointment may be made.~~

~~(1) In general. The certified list for promotional appointment shall contain twice the number of names as there are vacancies to be filled, but in no case less than three names except as provided in section 2-64(2) below. Where the preparation of such a certified list cannot be made because the last two or more candidates received equal scores on the examination, the certified list shall include the names of all such equally qualified candidates. The names certified shall be the highest on the eligible list. If any candidate whose name appears on the certified list is disqualified, or withdraws prior to the appointment to fill the vacancy being made, the commission shall promptly certify the next name from the eligible list. The newly certified candidate shall then be given every examination previously administered to persons on that certified list.~~

~~a. Police. There shall be one eligible list maintained in weighted score order for each promotional rank and the certified list shall be made up from the eligible list in the weighted score order.~~

~~b. Fire suppression/EMS lists. There shall be one eligible list maintained in weighted score order for each promotional rank in the fire suppression promotional positions and one eligible list maintained in weighted score order for each promotional rank in the emergency medical services promotional positions. Candidates must state at the time of application which subsections of~~

~~the promotional examination they will take and present evidence of paramedic licensure in the state of Maine if they wish to take the advanced pre-hospital medical care subsection and be considered for an emergency medical services vacancy.~~

~~Upon request for a certified list for either a suppression or emergency medical services vacancy, or for both, the certified list shall be made up in weighted score order from those candidates who wish to be considered for the vacancy. Only those candidates who provided evidence of paramedic licensure in the state of Maine at the time of application for the promotion and passed the advanced pre-hospital medical care subsection of the examination shall be considered for an emergency medical services vacancy. Candidates on the eligible list for the available vacancy who have indicated that they wish to be considered for that vacancy will be put on the certified list based upon their weighted score order on that eligible list, assuming they met the paramedic licensure requirement in the case of an emergency medical services vacancy. By way of example, if a candidate is second on the suppression list and fourth on the emergency medical services list and there is one suppression and one emergency medical services vacancy, that individual will be listed on the certified list for the suppression position but will not appear on the certified list for the emergency medical services vacancy.~~

- ~~(2) *Insufficient names for certified list.* When there are insufficient names on an eligible list to make a certified list, that insufficient eligible list may be used if the chief and the city manager both request that it be used and the employment subcommittee determines that (i) holding of an examination would result in delay which would impair the ability of the department to meet its staffing needs in a cost-effective manner; or (ii) holding of an examination is not likely to result in additional names on the eligible list.~~

~~(Ord. No. 174-05/06, 3-6-06)~~

~~Sec. 2-65. Hiring process.~~

- ~~(a) *Original appointment hiring process.*~~

- ~~• *Selection criteria.* Prior to receiving the names on the eligible list, the department shall submit written selection criteria to the director for review and approval.~~
- ~~• *Application review.* The department shall review all of the written applications and resumes of all applicants on the~~

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~~eligible list in order to select an appropriate candidate pool to continue in the hiring process, based upon the approved selection criteria. The review of applications and resumes shall be done by a review group composed of one employment subcommittee member, a member designated by the president of the affected unions, and three members appointed by the chief of the department from city personnel, which three members may include the chief or his or her designee. Pursuant to its affirmative action plan, the city has identified certain public safety positions as underrepresented as to both female and minority employees. So long as such under representation is determined to exist, any applicants on the entry level eligible list for either department who have self identified as a female or minority applicant will be included in that department's pool of candidates to interview.~~

- ~~• **Physical fitness assessment.** Except as provided herein for applicants for police original appointment, all persons selected to be interviewed will be given the physical fitness assessment as provided in 2-66(a)(2) below. In the case of police original appointments, the chief may accept substitution of a valid letter from the Maine Criminal Justice Academy stating that the applicant has passed the Academy's physical fitness assessment within the 12 months immediately prior to the date of placement on the eligible list. Notwithstanding the foregoing, the chief of each department reserves the right to give the physical fitness assessment to some or all of the entry level applicants prior to resume review, including but not limited to doing such assessments on the same day as the written examination. Failure to pass the assessment shall disqualify the applicant from consideration for hire for a minimum of thirty (30) days after the date of such failure, but the applicant shall remain on the eligible list, unless removed by the chief or the employment subcommittee pursuant to section 2-61 above.~~
- ~~• **Oral Board.** An oral interview will be conducted of all persons selected who have passed the physical fitness assessment. The oral board will consist of one employment subcommittee member, a member designated by the president of the affected unions, and three members appointed by the chief of the department from city personnel, which three members may include the chief or his or her designee. The oral board shall evaluate the candidates based upon a "recommend/do not recommend" basis.~~
- ~~• **Background checks.** Following the oral interview, all persons who were recommended will go through a background check, as provided in section 2-66(b) below.~~
- ~~• **Conditional job offer.** Following completion of the above~~

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~~elements of the hiring process, the chief may make a job offer which shall be conditional upon the approval of the city manager, and conditional upon passing a medical examination, as provided in section 2-65 below. In addition, in the case of the police department, such job offer shall be conditional upon passing a polygraph examination and a job suitability assessment. The Director shall be notified of the chief's conditional job offer(s) in order to review the hiring process for compliance with the requirements of this ordinance.~~

~~(b) Promotional appointment hiring process. In addition to the written test, police evaluation score or fire base score, and seniority, the promotional hiring process shall include an oral board which will consist of one employment subcommittee member, a member designated by the president of each of the affected unions and three (3) members appointed by the chief of the department from either city or non-city personnel, or a combination thereof, which three (3) members may include the chief or his or her designee. A job suitability assessment will also be done as provided in subsection 2-66(c) below.~~

~~(c) No conflict. In no case shall any member of the oral board be a candidate for the position nor a relative of a candidate.~~

~~(d) Appointments from list. Every appointment shall be made from an eligible list for original appointment or certified list for promotional appointment and the City Manager shall notify the civil service commission of appointments made.~~

~~(Ord. No. 174-05/06, 3-6-06; Ord. No. 298-05/06, 6-19-06 emergency passage)~~

~~**Sec. 2-66. Physical standards and background investigation for original appointment; Job suitability assessment for promotion, for police lateral transfer and for police original appointment.**~~

~~(a) Physical standards for original appointment.~~

- ~~1. Medical examination. All candidates on the eligible list for original appointment shall undergo a medical examination by a physician specified by the employment subcommittee, said medical examination to be done only after a conditional offer of employment has been made to the candidate. The examining physician shall report his or her findings in writing to the subcommittee with respect to whether the candidate is physically capable of meeting the standards established by rule of the subcommittee. If the physician's report indicates a disqualification which can be corrected, the candidate's name shall be returned to the eligible list except that such person shall not be again considered for appointment until such time as he or she furnishes satisfactory evidence that the disqualifying condition has been corrected. If the physician's report indicates a disqualification which cannot be corrected and which prevents the candidate from performing an essential function of the position with or without~~

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~~reasonable accommodation, the candidate's name shall be permanently removed from the eligible list pursuant to section 2-61 above.~~

- ~~(2) Physical fitness standards. In addition to the medical examination, the employment subcommittee shall establish by rule minimum standards and procedures for a physical fitness assessment of candidates for original appointment, which standards shall be determined by the subcommittee to be a bona fide occupational qualification or failure to meet them poses a safety hazard or cannot be reasonably accommodated in an individual case. Such physical fitness assessment shall be administered to each candidate by the department as provided in section 2-65(a)(3) above, and the result thereof shall be provided to the chief.~~

~~(b) Background investigation for original appointment.~~

- ~~(1) Fingerprinting. Candidates for original appointment to either department shall be directed to the police department where they shall be fingerprinted. All candidates shall execute any necessary waivers for the background check. The fingerprints and records of each candidate shall be checked against the local police files, state police files and, if available, the files of the Federal Bureau of Investigation, in order to determine whether the candidate has been convicted of a disqualifying criminal offense.~~

- ~~(2) Polygraph. Candidates for original appointment to the police department shall be required to submit to a polygraph examination to the extent such examination is permitted by law.~~

~~(c) Job suitability assessment for promotional appointments, for police lateral transfers and for police original appointments.~~

- ~~(1) All candidates whose names appear on any certified list for promotional appointment may be required to be examined by a psychologist for job suitability, the results of which examination shall be used by the chief of the department and by the city manager. Examinations hereunder for promotional appointment shall be required every year, except that the chief may waive said requirement if such examination has been done within three years of the date of the candidate's appearance on a certified list, and the results are available for use by the chief and the city manager. The extent of said examination shall be determined by a psychologist on an individual basis and may be either pre-offer or post-offer, depending upon the content of the assessment, the psychologist's representation as to the purpose of the assessment and the department's preference.~~

~~To the extent permitted by law, the chief of either~~

~~department may request that candidates on an eligible list undergo the job suitability examinations prior to drawing up a certified list if (1) doing so would overcome scheduling difficulties for a candidate and the candidate agrees to such scheduling and (2) doing so is necessary to ensure a timely appointment process. Nothing herein shall change a candidate's position on the eligible list or give him or her any vested rights therein.~~

~~(2) Candidates for police lateral transfer shall be given a post offer job suitability assessment.~~

~~(3) Candidates for police original appointment shall be given a post offer job suitability assessment as required by the Maine Criminal Justice Academy.~~

~~(d) Failure to pass polygraph test or job suitability assessment for police original appointment or job suitability assessment for police lateral transfer or job suitability assessment for police or fire promotional appointment. Notwithstanding anything herein to the contrary, any candidate for police original appointment who fails to pass a polygraph test as required hereunder, or, in the case of a police original appointment, police lateral transfer or police or fire promotional appointment, who fails to meet the job suitability assessment pursuant to this section, shall be removed from any list on which the candidate appears pursuant to section 2-61 above, and shall not be eligible to retake the written test until two years from the date the eligible list from which the candidate was removed was made.~~

~~(e) Failure to appear or complete hiring requirements. Any candidate who fails to appear for, or to complete, any component of the examination process, or any other requirement of the hiring procedure, shall be disqualified as a candidate and removed from any list on which he or she may appear. Such disqualification shall be reported to the employment subcommittee by the Director. Upon request of the candidate, the employment subcommittee may, in its discretion, waive the disqualification herein if: (i) the subcommittee finds that the candidate had sufficient excuse for such failure; and (ii) it finds that any rescheduling necessitated by such failure can be accomplished in a timely manner and with no disruption of the hiring process. Any candidate disqualified hereunder may reapply for any succeeding examination.~~

~~(f). Temporary withdrawal of applicants for original appointments. Notwithstanding the foregoing, a candidate for original appointment may, for sufficient cause, temporarily withdraw from consideration for a limited period of time upon the prior approval of the chief of the department. Any denial of a request for temporary withdrawal by the chief may be appealed to the subcommittee which may grant the request if (i) the subcommittee finds that the candidate had sufficient cause for such request; and (ii) it finds that any rescheduling necessitated by request can be accomplished in a timely manner with no disruption of the hiring process. A candidate who is~~

~~permitted to withdraw temporarily shall retain his or her place on the eligible list but shall not be considered for hire, or in the case of promotional appointment, shall not be placed on any certified list requested during the period of temporary disqualification. "Sufficient excuse" or "sufficient cause" as used herein shall include, but not be limited to, death or serious illness of a family member; temporary illness or disability of the candidate; completion of an academic or training program, or similar excuse and cause.~~

~~(g) *Duration of certified list.* The certified list shall be limited to the vacancy or vacancies for which it was requested. The names of persons not appointed shall be returned to the eligible list from which they were drawn. Each candidate for promotion who is not appointed shall be given, upon request, a statement by the chief of the department as to the reason or reasons why he or she was not recommended for appointment; or if he or she was recommended, a statement from the City Manager as to why he or she was not appointed. (Code 1968, § 201.12; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 288-90, 4-2-90; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Ord. No. 220-99, § 4, 3-1-99; Ord. No. 121-99, 12-20-99; Ord. No. 174-05/06, 3-6-06; Ord. No. 298-05/06, 6-19-06 emergency passage; Ord. No. 126-09/10, 1-4-10)~~

~~Sec. 2-67. Working test period.~~

~~(a) Except as otherwise provided below for police lateral transfers or as otherwise provided for re-hires under subsection 2-59(e), every person receiving any appointment or transferring pursuant to section 2-59 above shall be tested for a working test period of one (1) year while occupying the position to which he or she has been appointed or transferred, except that the working test period for original appointees or transferees to the police department shall be two (2) years. The period of the working test shall begin immediately upon appointment or transfer. The City Manager may at any time during the working test period reject for reasons stated in writing any person appointed to a position in either department. The City Manager shall forthwith report to the employment subcommittee in writing each rejection during such working test period, stating the date of the rejection and the reason for the rejection.~~

~~(b) Any person rejected during the working test period shall have no right of hearing, or appeal under this article, and in the case of a promotional appointment, shall revert to the rank and pay status from which he or she was promoted. No original appointment shall be effective beyond the end of the working test period unless, within ten (10) days preceding the end of the working test period, the City Manager shall report to the employment subcommittee in writing that in the opinion of the City Manager, the employee's work has been such as to indicate that he is willing and able to perform his duties in a satisfactory manner. Upon delivery of a favorable report from the City Manager, the appointment shall become permanent.~~

~~(c) A police lateral transfer who has prior service as a police officer at the time of appointment shall be credited with up to twelve (12) months of service toward completion of the department's two year~~

~~working test period, provided, however, that eligibility for promotional appointment shall continue to be completion of three (3) years in the Portland police department.
(Code 1968, § 201.13; Ord. No. 89-80, 7-7-80; Ord. No. 299-86, 1-22-86; Ord. No. 117-95, 11-20-95; Ord. No. 184-97, 1-22-97; Ord. No. 174-05/06, 3-6-06; Ord. No. 126-09/10, 1-4-10)~~

DIVISION 4. POLICE CITIZEN REVIEW SUBCOMMITTEE

Sec. 2-76. Functions and duties.

(a) *Duties.* The duties of the police citizen review subcommittee are as follows:

- (1) To determine whether police investigations into citizens' complaints against police officers are thorough, objective, fair and timely by auditing the police department's internal affairs' unit investigative methods and procedures;
- (2) To report in writing to the City Manager periodically, but no less than annually beginning in January 2003, as follows:
 - a. on the subcommittee's determination as to the thoroughness, objectivity, fairness and timeliness of the police internal affairs' investigation of citizen complaints against police officers;
 - ~~b. a statistical analysis of all cases reviewed, including an analysis of trends and patterns of complaints or results of investigations of complaints; and~~
 - c. any recommendations and/or proposals for improvements or modifications in the police internal affairs investigative process, policies or training, and for enhancing public confidence in the methods and process of investigation of citizen complaints against police officers.
- (3) To hold a public hearing at least annually to receive comments upon the police citizen complaint process.
- (4) Although it shall have access to individual internal affairs reports in order to review investigative methods and procedures, all reports of the subcommittee shall be done in such a manner that particular complainants, witnesses and officers are not personally identifiable.
- (5) Reports of the subcommittee shall be made available to the public to the extent consistent with the State Freedom of Access Act, 1 M.R.S.A. Sec. 401 et.seq.

- (6) To make suitable procedural rules, from time to time, for the conduct of its duties. Proposed rules shall be submitted to the City Council and shall become effective only when approved by the City Council. All such rules shall be recorded in the office of the City Clerk.

(b) *Complaints to be reviewed.* ~~Effective with complaints completed, as defined in subsection (3) immediately below, on or after January 1, 2002, the subcommittee shall review the internal affairs investigation of the following citizen complaints against police officers:~~

- ~~1. complaints alleging excessive force;~~
- ~~2. complaints alleging civil rights violations;~~
- ~~3. complaints alleging conduct that would constitute a criminal offense; and~~
- ~~4. any other complaint which the subcommittee deems necessary to review in order to carry out its duties hereunder.~~

~~In addition to the foregoing, the subcommittee shall review any complaint upon request of the complaining party, subject to the January 1, 2002 completion date. The subcommittee shall review all completed internal affairs investigations of citizen complaints.~~

(c) *Timing of review.* All subcommittee reviews of citizen complaints shall take place only after final disciplinary action has been taken and all appeals exhausted or the case has been finally closed with no disciplinary action taken.

(d) *Notification of review.* The subcommittee shall notify the citizen complainant, in writing, of the subcommittee's review and any findings made by the subcommittee regarding the thoroughness, objectivity, fairness and timeliness of the internal affairs investigation.

(e) *Scope of authority.* The subcommittee shall conduct its duties solely to determine the thoroughness, objectivity, fairness and timeliness of the police department's internal affairs' methods and procedures in regard to citizen complaints against police officers, and the subcommittee shall have no power or authority to subpoena or call witnesses nor to impose or modify any disciplinary action, or lack of action, against any police officer. The subcommittee shall make no recommendations nor offer any findings or comments relative to any disciplinary action, or lack of action, against any officer.

(f) *Training.* Prior to assuming their duties hereunder, subcommittee commissioners shall attend training by city staff as to

the subcommittee's duties and responsibilities, applicable state and local law and regulations, issues relevant to the conduct of the citizen review function, accepted police practices and the department's internal affairs investigation process. Such training shall be provided by the city at no cost to the subcommittee members.

(gf) *Resources.* To facilitate the effectiveness and objectivity of the police citizen review subcommittee, the city shall make available to the subcommittee the services of a technical advisor, as needed by the subcommittee. The technical may be used for the purposes of training; briefing the subcommittee on accepted police practices, applicable law and issues relevant to the discharge of the citizen review function; and educating the subcommittee on aspects of the internal investigation process. The advisor shall be retained by the City Manager after consultation with the Chief of Police, representatives of the police unions and the subcommittee chairperson. Any person who presently maintains any business or professional affiliation with the police department shall be disqualified from serving as technical advisor.

The city shall further make available all internal affairs investigation reports and police documents relevant to such investigations which are necessary for the subcommittee to conduct its duties hereunder. In no case shall the subcommittee have access to police officers' personnel records except to the extent that they are part of an internal affairs investigation report or are considered a public document under the state Freedom of Access law.

(Substitute Ord. No. 83-01/02, § 3, 11-5-01)