

8 AAC 15.100 is amended to read:

8 AAC 15.100. Calculating the regular rate. (a) An employee's regular rate is an hourly rate figured on a weekly basis. An employer is not required to hire an employee at an hourly rate. The employee may be paid by piece-rate, salary, commission, or other basis agreeable to the employer and employee. The employer shall convert the employee's compensation basis to an hourly rate to determine the employee's regular rate. An employer who pays an employee on a salary basis is not exempt from overtime pay requirements under this chapter. If an employee's work is not exempt from overtime pay requirements under this chapter and the employer pays the employee on a salary basis, the employer shall compensate the employee for overtime based on a written employment contract. The following provisions apply to an employee who is paid on a salary basis:

(1) the employment contract must

(A) be in writing;

(B) set out the specific number of straight time and overtime hours the employee is expected to work each day and each week; and

(C) establish a regular straight time hourly rate of pay and the appropriate overtime rate with respect to the salary to be paid to the employee and the number of hours to be worked by the employee; changes to the pay schedule of a salaried employee must conform to the provisions of AS 23.05.160;

(2) if the employment contract does not establish a fixed number of daily and weekly hours that the salary is intended to compensate, the salary will be considered to be compensation for an eight-hour workday and 40-hour workweek; an employee's overtime rate and sick leave accrual will be computed on that basis.

(b) To compute a regular hourly rate for the purpose of determining the overtime rate and sick leave accrual for an employee who is paid other than hourly or by salary, or if the employee's rate of pay includes a bonus, an employer shall apply the following:

(1) for a pieceworker, the method set forth in 29 C.F.R. 778.111, revised as of May 5, 2011 and adopted by reference;

(2) for an employee who works at two or more hourly rates,

(A) not less than the rate applicable to the same work when performed during non overtime hours; or

(B) the method set forth in 29 C.F.R. 778.115, revised as of January 26, 1968, and adopted by reference;

(3) for an employee who receives wages in a form other than cash, the method set forth in 29 C.F.R. 778.116, revised as of January 23, 1981, and adopted by reference;

(4) for an employee who receives a commission, the method set forth in 29 C.F.R. 778.117 - 778.122, revised as of January 23, 1981, and adopted by reference;

(5) for an employee who receives a bonus, the method set forth in 29 C.F.R. 778.208 - 778.215, revised as of January 5, 2020, and adopted by reference.

(c) To compute an employee's hours for the purpose of determining the employee's overtime rate and sick leave accrual, the employer shall count the hours worked by the employee during that week.

(d) The following compensation methods do not satisfy the payment of overtime provisions under AS 23.10.060:

(1) a guaranteed weekly pay for variable hours plan ("Belo" contract) established under sec. 7(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207(f) as implemented in 29 C.F.R. 778.402 - 778.414);

(2) compensatory time (comp time) off instead of monetary compensation for overtime;

(3) a flex-time or flexitime plan established under 29 C.F.R. 778.114 that provides a fixed salary for fluctuating hours up to a predetermined maximum number of hours in a workweek.

(e) Except as provided under 8 AAC 15.908(c), an employer shall compensate an employee for overtime based on a written employment contract if the employee is paid on a daily rate and whose work is not exempt from overtime pay requirements under AS 23.10.055 or 23.10.060(d). The following provisions apply to an employee paid on a daily rate:

(1) if the employee's daily rate is compensation for a set number of hours in a day, the contract must set out the employee's applicable straight time and overtime rates; if the contract does not set out the employee's hours of work, the daily rate will be considered to be compensation for an eight-hour workday; the employee's overtime rate and sick leave accrual will be computed on that basis;

(2) if the employee works overtime hours that are not covered by the daily rate established in the contract, the employer shall adjust the employee's pay at the overtime rate for

(A) hours worked in excess of eight hours in one day; and

(B) all hours worked on days worked after 40 straight time hours in a week. (Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 4/29/99, Register 150; am 3/2/2008, Register 185; am 8/12/2018, Register 227; am 9/25/2025, Register 255)

Authority: AS 23.05.060 AS 23.10.085 AS 23.10.095
AS 23.10.060

8 AAC 15 is amended by adding new sections to Article 2 to read:

8 AAC 15.106. Employee count. (a) To determine the amount of sick leave accrual under AS 23.10.066, an employer shall calculate the number of Full-Time Equivalents (FTEs) employed during the previous calendar year by adding the total number of hours worked by all part time and full time employees during the calendar year and dividing the sum by the maximum amount of regular hours for a full time employee during the time period.

(b) If a business did not operate in the previous calendar year, the employer shall initially calculate FTEs based on the first three months of operation during the current calendar year, and shall thereafter recalculate FTEs on a quarterly basis until a calendar year calculation can be completed. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.066 AS 23.10.085

8 AAC 15.107. Accrual year. (a). Unless an employer has elected to front-load sick leave under 8 AAC 15.108, an employer shall establish a consecutive 52 week period for purposes of calculating an employee's annual accrual of sick leave. If an employer does not specify an accrual year under this section, an employee shall accrue sick leave on a calendar year basis. Except as provided in 8 AAC 15.108, an employee is entitled to carry over unused sick leave to the next accrual year.

8 AAC 15.108. Front-loading sick leave. (a) An employer may provide an annual reoccurring lump-sum of sick leave instead of yearly accrual by assigning the minimum number of annual sick time hours required under AS 23.10.066 to an employee and making those hours available without regard to an accrual rate

(1) as soon as the employee becomes eligible to use sick time; and

(2) on the first day of each subsequent year the employee is employed by the employer.

(b) An employer who front-loads sick leave under this section is not required to carry over sick leave to the following year. An employer may prorate the amount of annual sick leave assigned to an employee employed less than a year.

(c) If an employer front-loads sick time, the employer shall assign to a full-time employee the minimum amount of annual sick leave authorized under AS 23.10.066 and to a regular part-time employee not less than the calculated amount of sick leave that the employee would accrue in a year based on the employee's normally scheduled hours. An employer may assign to an irregular part-time employee an amount of sick time based on the employee's average past hours worked.

(d) Nothing in this section authorizes an employer to assign to an employee less than the amount of sick leave the employee would accrue under AS 23.10.066. An employer shall increase the assigned sick leave of a part-time employee who would be entitled to accrue more sick leave than the employer assigns to them, based on the number of hours the employee actually works in a year. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.066 AS 23.10.068 AS 23.10.085

8 AAC 15.109. Paid leave or paid time off policies. (a) Paid time off provided to an employee through an employer's paid leave or paid time off policy satisfies the requirement to provide paid sick leave if

(1) the policy meets the requirements under AS 23.10.066;

(2) the employer notifies the employee that the policy will be utilized to meet the paid sick leave requirements under AS 23.10.066(6);

(3) paid time off accrues at a rate of not less than one hour for every 30 hours worked as an employee; and

(4) an employee may utilize accrued paid time off in the bank on the same terms for the purposes authorized under AS 23.10.067.

(b) An employer is not required to provide additional paid time off or paid sick leave to an employee if

(1) the employee used the accrued paid time off for a purpose other than one authorized under AS 23.10.067; and

(2) the employer's policy meets the requirements of AS 23.10.066, 23.10.067, and this chapter.

(c) Nothing in AS 23.10.066 prohibits an employer from having a written policy that prohibits leave without pay and that automatically deducts accrued hours from the employee's paid time-off bank.

(d) If an employer provides an employee paid time-off or sick leave hours in excess of the minimum yearly allotment, the excess hours are not subject to the provisions of this chapter.

(e) In AS 23.10.066 and this section, a “paid leave” or “paid time off” policy means a program by an employer that combines more than one type of leave, including paid sick leave, in to one bank of leave. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.066 AS 23.10.085

8 AAC 15.110. Voluntary cash-out of paid sick leave. (a) An employer may have a written policy that allows an employee to cash out the employee's accrued sick leave during the course of the employee's employment or if the employee separates from employment if

(1) the employee is given the option to

(A) take the cash payment instead of rolling over the yearly accrual; or

(B) maintain the sick leave balance in case the employee returns to

employment within six months of separation; and

(2) the employee acknowledges and voluntarily accepts the cash-out of sick leave in writing.

(b) The employer's full obligation of the sick leave requirement is met if the employee voluntarily accepts the cash-out of sick leave. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.066 AS 23.10.085

8 AAC 15.111. Payment of sick leave. (a) An employee who uses sick leave will be paid at the employee's regular rate of pay as set out under 8 AAC 15.100 or the applicable minimum wage rate, whichever is greater.

(b) If an employee uses sick leave for a shift that is defined by business needs rather than a set number of hours or for another shift of indeterminate length, the employer may determine

the amount of sick leave used by the employee based on a reasonable calculation. An employer shall apply a consistent methodology to calculate the normal hourly compensation of similarly situated employees, including

(1) the number of hours worked by a replacement employee in the same shift or a similarly situated employee who works the same shift or who has worked a similar shift in the past; or

(2) the average number of daily hours the employee has worked for the last 30 days. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.067 AS 23.10.085

8 AAC 15.112. Reasonable advance notice. (a) For the purposes of AS 23.10.067(2), an employer may specify in its sick leave policy the amount of reasonable advance notice required when an employee requests sick leave for a pre-scheduled medical appointment or other foreseeable absence, if the employer has provided the sick leave policy to the employee. An employer may not require more than 10 calendar days' advance notice for a foreseeable absence.

(b) An employer's advance notice policy may require an employee to make a reasonable attempt to not schedule a medical appointment during peak business hours, when work is time-sensitive, or when a mandatory meeting is scheduled if the employee's absence would unduly disrupt business operations.

(c) An employee shall inform the employer of a change in the expected duration of the sick leave as soon as possible.

(d) If an employee requires an unforeseen absence, the employee shall notify the employer before the start of the employee's shift or as soon as is possible, depending on the

circumstances.

(e) An employer may discipline an employee if the employee fails to provide reasonable advance notice under this section and may deny an employee's sick leave request if the employee does not make a reasonable effort to schedule leave as set out under (b) of this section.

(f) An employer may not discipline an employee or deny sick leave to an employee for

(1) using sick leave in accordance with the employer's written sick leave policy;

or

(2) violating the employer's sick leave policy if the employer has not provided the employee with a copy of the written sick leave policy. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.067 AS 23.10.085

8 AAC 15.113. Employee verification of absences. If an employee uses sick leave for more than three consecutive scheduled workdays, an employer may require the employee to provide reasonable documentation to verify the employee's need for the sick leave if the employer has included the verification requirement in the employer's sick leave policy and has provided the sick leave policy to the employee. An employer may not require the verification to explain the nature of the employee's illness or details related to domestic violence, sexual assault, harassment, or stalking that necessitated the employee's use of sick leave. Days that an employee is not scheduled to work are not included in the calculation of three consecutive scheduled workdays under this section. If an employer has requested verification of an employee's use of sick leave under AS 23.10.067(3) or this section, the employer is not required to pay sick leave until the employee has provided the requested verification. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.067 AS 23.10.085

8 AAC 15.114. Employer written notice and reporting to employees. (a) An employer shall notify each employee in writing of the following policies or procedures relating to the use or accrual of sick leave:

- (1) the employee's entitlement to paid sick leave when employment begins;
- (2) the rate at which the employee will accrue paid sick leave;
- (3) the authorized purposes under which the employee may use paid sick leave;
- (4) the employer's intention to use a paid time-off program to meet the requirements under AS 23.10.066, if applicable;
- (5) other reasonable notice or verification requirements for the employee when using paid sick leave;
- (6) notice that retaliation by the employer for the employee's lawful use of paid sick leave and other rights provided under AS 23.10.066, 23.10.067, and this chapter is prohibited.

(b) An employer may comply with the requirement to provide the written notice required under (a) of this section by

- (1) distributing the written notice to each employee personally, by United States mail, by electronic mail, or by including the notice in an employee's paycheck;
- (2) incorporating the written notice into a handbook or manual made available to employees, whether in a print or electronic format; or
- (3) posting the written notice in a conspicuous and accessible location in each workplace of the employer. (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.068 AS 23.10.085

8 AAC 15.115. Retaliation. (a) It is an unlawful employment practice for an employer or another person to deny, interfere with, restrain, or fail to pay for sick leave to which an employee is entitled.

(b) It is an unlawful employment practice for an employer or another person to retaliate or discriminate against an employee because the employee has

- (1) inquired about the provisions of AS 23.10.066 - 23.10.069;
- (2) submitted a request for sick leave;
- (3) taken sick leave;
- (4) participated in an investigation related to AS 23.10.066 - 23.10.069; or
- (5) invoked a provision of AS 23.10.066 - 23.10.069.

(c) It is an unlawful employment practice for an employer or another person to apply an absence control policy that includes a covered sick leave absence under AS 23.10.066 - 23.10.069 as an absence that may result in an adverse employment action against the employee.

(d) Nothing in AS 23.10.066 - 23.10.069 or this chapter prohibits an employer's compliance with 29 U.S.C. 2601 - 2654 (Family Medical Leave Act) or 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act of 1990). (Eff. 9/25/2025, Register 255)

Authority: AS 23.10.067 AS 23.10.085

8 AAC 15.119. Definitions for AS 23.10.066 - 23.10.069 and 8 AAC 15.106 - 8 AAC 15.119. In AS 23.10.066 - 23.10.069 and 8 AAC 15.106 - 8 AAC 15.119,

- (1) "hours worked"

(A) means hours during which an employee is authorized or required by the employer to be on duty on the employer's premises or at a prescribed workplace;

(B) does not include holidays, vacation, time spent not working while the employee is on call, or other non-working hours;

(2) "on call" means

(A) time outside of normal scheduled work hours during which the employee is required to be available to work if requested by the employer but during which the employee is relieved from all other duties, not compensated, and may use the time for the employee's own purposes;

(B) does not include time during which the employee is compensated and not free to use the time for the employee's own purposes;

(3) "separation" means the end of the employee-employer relationship by means of voluntary resignation, involuntary termination, discharge for misconduct, or layoff. (Eff.

9/25/2025, Register 255)

Authority:	AS 23.10.066	AS 23.10.068	AS 23.10.085
	AS 23.10.067	AS 23.10.069	

The introductory language of 8 AAC 15.126(a) is amended to read:

8 AAC 15.126. Minimum wage and sick leave exemption for non-profit residential summer camp employees. (a) An employee of a non-profit residential summer camp is exempt from the minimum wage requirement set out in AS 23.10.065 and is subject to the sick leave exemption set out in AS 23.10.069(a) if the residential summer camp employee

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(Eff. 4/2/2023, Register 246; am 9/25/2025, Register 255)

Authority: AS 23.10.069 AS 23.10.070 AS 23.10.085

8 AAC 15.160(h) is amended by adding new paragraphs to read:

 (14) sick leave used in the accrual year established under 8 AAC 15.107; and

 (15) sick leave balance.

(Eff. 12/9/78, Register 68; am 9/28/85, Register 95; am 4/29/99, Register 150; am 5/16/2003, Register 166; am 3/2/2008, Register 185; am 7/28/2023, Register 247; 9/25/2025, Register 255)

Authority: AS 23.05.060 AS 23.10.065 AS 23.10.095
 AS 23.10.060 AS 23.10.085

(((Publisher, please remove the "and" connector from the end of 8 AAC 15.160(h)(12) and change the period at the end of 8 AAC 15.160(h)(13) to a semicolon.)))