

EMPLOYMENT SERVICES ALERT

9/10/15

Obama Orders Federal Contractors to Provide Paid Sick Leave

By [Matt Austin](#)

On September 7, 2015, Labor Day, President Barack Obama signed an executive order requiring federal contractors and subcontractors to provide paid sick leave for their employees. Contractors must provide employees one hour of paid leave for every 30 hours they work and permit employees to accrue at least 56 hours of leave per year. Fortunately, this law does not take effect for over a year.

Federal contractor employees can use their paid sick leave to care for a child, parent, spouse, domestic partner “or any other individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship.” The order specifies that employees can use their leave for absences related to domestic violence or sexual assault, for activities such as obtaining counseling, seeking assistance from a victim services organization, or taking related legal action.

Paid sick leave carries over year to year, but contractors are not required to pay an employee for unused sick leave upon departure. Employees must provide written or verbal notice of the need for leave at least seven days in advance if the leave is foreseeable and as soon as practicable when the need for leave is not foreseeable. Contractors can require certification only if the leave of absence is for three or more consecutive days. The order requires the Secretary of Labor to issue interpreting regulations by September 30, 2016, which should clarify what records employers must keep to comply with this order.

Although restricted to federal contractor employees, this order provides significantly more benefits than the well-known and often lamented Family and Medical Leave Act (FMLA). FMLA provides only unpaid time off and that time does not carry over year to year. Additionally, FMLA leave is limited to immediate family members defined as a spouse, child, or parent. The President’s order is much broader allowing leave to care for a person who is the “equivalent of a family relationship.” Does this cover boyfriends/girlfriends, roommates, friends, in-laws? It will be interesting to see whether the DOL’s regulations attempt to define individuals related by “affinity” and whether this definition establishes any limitations on the President’s broad language.

The requirement will take effect for contracts entered into beginning January 1, 2017, making this order President Obama’s parting gift just before he leaves office. The White House would not specify how much it would cost federal contractors to implement this executive order. The Department of Labor asserts that such costs will be offset by savings contractors would realize because of lower attrition rates and increased worker loyalty. The DOL did not provide any data to support this assertion.

President Obama has encountered significant resistance moving his policy agenda through a Republican-controlled Congress, so he has resorted to issuing executive orders to apply his

policies to federal contractors where he cannot apply the policies nationwide. Other executive orders issued during President Obama's tenure have barred federal contractors from discriminating against workers based on their sexual orientation or gender identity and raised minimum wage to \$10.10 for federal contractor employees.

For further information regarding the subject matter of this Alert, please contact the following Roetzel Labor Law attorneys:

Doug Spiker
Practice Group Manager,
Employment Services
216.696.7125 | dspiker@ralaw.com

Matt Austin
614.723.2010 | maustin@ralaw.com

Robert Blackham
216.615.4839 | rblackham@ralaw.com

Lindsay M. Bouffard
614.723.2026 | lbouffard@ralaw.com

Eric G. Bruestle
513.361.8292 | ebruestle@ralaw.com

Helen S. Carroll
330.849.6710 | hcarroll@ralaw.com

Frederick Compton, Jr.
330.849.6610 | fcompton@ralaw.com

Denise Hasbrook
419.254.5243 | dhasbrook@ralaw.com

Paul L. Jackson
330.849.6657 | pjackson@ralaw.com

Doug Kennedy
614.723.2004 | dkennedy@ralaw.com

Nathan Pangrace
216.615.4825 | npangrace@ralaw.com

Todd L. Sarver
614.463.9770 | tsarver@ralaw.com

Emily Ciecka Wilchek
419.254.5260 | ewilcheck@ralaw.com