

8 AAC 15.100 is amended to read:

**8 AAC 15.100. Calculating the regular rate [PAYMENT FOR OVERTIME].** (a) An employee's [REGULAR RATE IS THE BASIS FOR COMPUTING OVERTIME. THE] regular rate is an hourly rate figured on a weekly basis. An **employer is not required to hire an** employee [NEED NOT ACTUALLY BE HIRED] at an hourly rate. The employee may be paid by piece-rate, salary, commission, or [ANY] other basis agreeable to the employer and employee. **The employer shall convert the employee's** [HOWEVER, THE APPLICABLE] compensation basis [MUST BE CONVERTED] to an hourly rate **to determine** [WHEN DETERMINING] the **employee's** regular rate [FOR COMPUTING OVERTIME COMPENSATION]. **An employer who pays an employee** [PAYMENT] on a salary basis **is not exempt from** [DOES NOT ELIMINATE] 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** [FOR] an employee **who** [WHOSE WORK IS NOT EXEMPT BY LAW FROM OVERTIME PAY REQUIREMENTS, BUT] is paid on a salary basis:

(1) the employment contract must

**(A)** be in writing; [AND MUST]

**(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)** [THE CONTRACT MUST] 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** [A] contract **does not** [FAILS TO] establish a fixed number of daily and weekly hours that the salary is intended to compensate, [OR IF THE ACTUAL HOURS OF WORK DEVIATE FROM THE HOURS SPECIFIED IN THE CONTRACT WITHOUT A CORRESPONDING ADJUSTMENT IN HOURLY PAY,] the salary will be considered to be compensation for an eight-hour **workday** [WORK DAY] and 40-hour workweek; **an employee's** [, AND] overtime **rate and sick leave accrual** will be computed on that basis.

(b) **To** [IN ORDER 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** [BONUSES], the following provisions of 29 C.F.R. Part 778 apply **and are adopted by reference**:

(1) for a pieceworker, 29 C.F.R. 778.111, **revised as of May 5, 2011**;

(2) for an employee who works at two or more hourly rates, 29 C.F.R. 778.115, **revised as of January 26, 1968**;

(3) for an employee who receives wages in a form other than cash, 29 C.F.R. 778.116, **revised as of January 23, 1981**;

(4) for an employee who receives a commission, 29 C.F.R. 778.117 - 778.122, **revised as of January 23, 1981**; [OR]

(5) for an employee who receives a bonus, **29** [28] C.F.R. 778.208 - 778.215, **revised as of May 5, 2011**.

(c) **To compute** [WHEN COMPUTING] an employee's hours for the purpose of determining **the employee's** overtime **rate and sick leave accrual**, the employer shall count **the**

[ALL] hours **worked by** the employee [WORKED] during that week [INCLUDING PERIODS OF "ON CALL" AND "STANDBY OR WAITING TIME" REQUIRED FOR THE CONVENIENCE OF THE EMPLOYER WHICH WERE A NECESSARY PART OF THE EMPLOYEE'S PERFORMANCE OF THE EMPLOYMENT. HOWEVER, IF THE EMPLOYEE IS COMPLETELY RELIEVED FROM ALL DUTIES FOR 20 MINUTES OR MORE DURING WHICH THE EMPLOYEE MAY USE THE TIME EFFECTIVELY FOR THE EMPLOYEE'S OWN PURPOSES, THEN THOSE PERIODS NEED NOT BE COUNTED].

(d) The following **compensation methods do not satisfy** [ARE NOT ACCEPTABLE METHODS OF COMPLYING WITH] the payment of overtime provisions **under** [OF] AS 23.10.060:

(1) **a** guaranteed weekly pay for variable hours plan ("Belo" **contract** [CONTRACTS]) 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** [IN PLACE OF PAYMENT] for overtime; [AND]

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

(e) Except **as provided under** [FOR AN EMPLOYEE DESCRIBED IN] 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** [OTHERWISE EXEMPTED] from overtime pay requirements under AS 23.10.055 or 23.10.060(d) [MUST BE COMPENSATED FOR OVERTIME BASED ON A WRITTEN

EMPLOYMENT CONTRACT]. The following provisions apply **to** [FOR] 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 [WRITTEN EMPLOYMENT] 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 [EMPLOYMENT] contract, the employer **shall adjust** [MUST PROVIDE FOR AN ADJUSTMENT TO] the employee's pay at the overtime rate for

(A) hours worked in excess of **eight** [THE ESTABLISHED DAILY NUMBER OF] hours **in one day**; and

(B) all hours worked on days worked after 40 straight time hours in a week [;

(3) TO MAINTAIN THE HOURLY RATES, THE EMPLOYER MUST REDUCE THE EMPLOYEE'S PAY WHEN THE EMPLOYEE WORKS LESS THAN THE PRESCRIBED NUMBER OF HOURS IN A DAY; IF THE WAGES ARE NOT REDUCED, THE DAILY RATE IS CONSIDERED TO COMPENSATE AN EMPLOYEE FOR A VARIABLE NUMBER OF HOURS WORKED AND THE OVERTIME MUST BE CALCULATED AND PAID IN ACCORDANCE WITH (4) OF THIS SUBSECTION;

(4) IF THERE IS NOT A WRITTEN EMPLOYMENT CONTRACT OR IF THE DAILY RATE PROVIDES COMPENSATION FOR A VARIABLE NUMBER OF HOURS WORKED, THE OVERTIME MUST BE CALCULATED AS FOLLOWS:

(A) EACH WEEK, THE EMPLOYER MUST CALCULATE THE STRAIGHT TIME RATE OF PAY BY DIVIDING THE TOTAL AMOUNT PAID AT THE DAILY RATE BY THE TOTAL NUMBER OF HOURS WORKED IN THE WEEK; AND

(B) THE EMPLOYER MUST PAY ONE-HALF OF THE STRAIGHT TIME RATE ESTABLISHED UNDER (A) OF THIS PARAGRAPH FOR EACH OVERTIME HOUR WORKED IN THE WEEK TO BRING THE EMPLOYEE'S WAGES UP TO ONE AND ONE-HALF TIMES THE REGULAR RATE FOR HOURS WORKED OVER EIGHT HOURS IN A DAY AND OVER 40 STRAIGHT TIME HOURS IN A WEEK; THIS CALCULATION MUST BE PERFORMED SEPARATELY EACH 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 \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**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) An employer shall use an average number of employees who were employed per day during the entire previous calendar year to determine sick leave accrual. To determine the average number of employees, the employer shall count each employee who performed work for compensation on a

- (1) full-time basis;
- (2) part-time basis;

(3) seasonal basis; or

(4) temporary basis.

(b) If a business did not operate in the previous calendar year, the employer shall use the actual count of current employees or the average number of employees during the previous months of operation in the current year, whichever is greater. (Eff. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:**    AS 23.10.066              AS 23.10.085

**8 AAC 15.107. 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 total 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. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:**    AS 23.10.066                      AS 23.10.068                      AS 23.10.085

**8 AAC 15.108. 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. \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:**    AS 23.10.066              AS 23.10.085

**8 AAC 15.109. 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. \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)



**Authority:**    AS 23.10.066              AS 23.10.085

**8 AAC 15.110. 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) A "full day" is calculated as set out under 8 AAC 15.100 and may not exceed eight hours.

(c) A "partial day" absence may be paid based on the amount of time missed for a shift of less than eight hours in increments consistent with AS 23.10.067(4).

(d) 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. \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:**    AS 23.10.067              AS 23.10.085

**8 AAC 15.111. 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. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:**    AS 23.10.067              AS 23.10.085

**8 AAC 15.112. 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. \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_)

**Authority:**    AS 23.10.067              AS 23.10.085

**8 AAC 15.113. 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. \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**Authority:**    AS 23.10.068              AS 23.10.085

**8 AAC 15.114. 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. \_\_\_\_/\_\_\_\_/\_\_\_\_\_, Register \_\_\_\_\_)

**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;

Register \_\_\_\_\_, \_\_\_\_\_, 2025      LABOR AND WORKFORCE DEV.

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

\_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**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

• • •

(Eff. 4/2/2023, Register 246; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

**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 accrued and used in the calendar year; 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; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register \_\_\_\_\_)

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

Register \_\_\_\_\_, \_\_\_\_\_, 2025      LABOR AND WORKFORCE DEV.

(((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.)))