



# Interpretive Notice & Formal Opinion (“INFO”) #6B: Paid Sick Leave under the Healthy Families and Workplaces Act

## Overview

This INFO #6B covers paid leave under the [Healthy Families and Workplaces Act](#) (“HFWA,” S.B. 20-205 as amended by S.B. 23-017),<sup>1</sup> which requires all employers to provide all employees (part-time, temporary, etc.):

- **Accrued Leave** — up to 48 hours of paid leave per year, for use for a variety of health and safety purposes, which employees “earn” at a rate of 1 hour of leave for every 30 hours worked; and
- **Public Health Emergency (PHE) Leave** — up to 80 hours of paid leave related to a PHE, which included the COVID-19 PHE that ended on May 11, 2023, with PHE leave that was available for use until June 8, 2023.<sup>2</sup>

Key points on HFWA leave, with more details covered in the rest of this INFO: employers —

- must **pay** for leave at the same pay rate, and with the same benefits, as time worked;
- can’t **impose consequences** for taking leave, or require employees to find replacements;
- can require **documentation** for accrued leave — but with limits, and not for PHE leave;
- must give employees individual **written notices**, and also display **posters**, on HFWA rights; and
- may be **ordered to pay** back wages, penalties, and fines, and to **change their policies**, for violations.

Separately from HFWA, Colorado’s **Family & Medical Leave Insurance (“FAMLI”)** Program provides paid family and medical leave for up to 12 weeks, with an additional 4 weeks for pregnancy complications. For more on FAMLI, visit <https://famli.colorado.gov>. For more on how HFWA relates to FAMLI, see [INFO #6C](#).

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<sup>1</sup> Rules applicable to HFWA include the [Wage Protection Rules](#), 7 CCR 1103-7, and [Colorado Whistleblower, Anti-Retaliation, Non-Interference, and Notice-Giving \(“Colorado WARNING”\) Rules](#), 7 CCR 1103-11.

<sup>2</sup> Because there has not been a PHE in effect since the COVID-19 PHE ended, this INFO does not address this category leave in detail. If another PHE is declared, the Division will issue updated guidance for PHE-specific leave at that time.

**Who is Covered by HFWA?**

- (1) **Employers:** HFWA covers **all employers** of any employees in the state, regardless of industry or size.<sup>3</sup>
- (2) **Employees:** HFWA covers **all employees (part-time, seasonal, temporary, etc.)**, excluding only federal government employees (but other government employees are covered) and some railroad employees.<sup>4</sup>
- (3) **Parties liable:** While **interference** with HFWA rights **by any** person or entity is unlawful, **only the employer** of an employee is responsible for paying wages during HFWA leave, and for the penalties Colorado law imposes (a multiplier of the wages due) for any wages not paid during HFWA leave.

**Accrued Leave — When Employers Must Provide Paid Leave, and How Much.****(a) Reasons Employees Can Use Accrued Leave.**<sup>5</sup>

1. a mental or physical **illness, injury, or health condition that prevents work**;
2. obtaining either **preventive medical care** (including vaccination), or **medical diagnosis, care, or treatment** of any mental or physical illness, injury, or health condition;
3. a victim of **domestic abuse, sexual assault, or criminal harassment** needing leave for medical attention, mental health care or other counseling, legal or other victim services, or relocation;
4. **care for a family member** who has a mental or physical illness, injury, or health condition, or who needs the sort of care listed in category (b) or (c);<sup>6</sup>
5. during a public health **emergency**, a public official closed the employee’s workplace, or the school or place of care of the employee’s **child**;
6. grieving, funeral/memorial attendance, or financial/legal needs after a **death of a family member**; or
7. due to inclement **weather, power/heat/water loss, or other unexpected event**, an employee must
  - a. **evacuate** their residence, or
  - b. care for a family member whose **school or place of care was closed**.

**Example 1:** Cory sees two providers: a nutritionist; and a mental health therapist. Both are covered. A nutritionist may be for (1) an “illness, injury, or health condition that prevents work” (e.g., bad stomach aches or irritable bowel syndrome). But even if not for an “illness, injury, or health condition that prevents work,” it still is (2) “preventive medical care.” The same two reasons apply to the mental health therapist.

**Example 2:** Yesenia and Mabel, who both have accrued HFWA leave, temporarily leave their homes after high winds (a) cause Xtreme Energy to preemptively cut power at Yesenia’s house for fire safety, and (b) at Mabel’s home, she keeps power, but the winds break a window, making her first-level apartment unsafe and too cold to sleep in. Under category (7)(a) above, “evacuation” can be triggered by any of the events listed in the statute, as well as any “other unexpected occurrence or event” that may require someone to leave their home for safety. That means:

- Yesenia is entitled to use HFWA leave. Under the statute, losing power is sufficient reason to evacuate — even if the loss of power was known in advance.

<sup>3</sup> Before 2022, employers with 15 or fewer employees were exempt from accrued but not supplemental PHE leave. [C.R.S. §§ 8-13.3-402\(5\)\(b\), -405](#); [Wage Protection Rules](#) (WP Rules), 7 CCR 1103-7, Rule 2.7.4 (how to count employees).

<sup>4</sup> [C.R.S. § 8-13.3-402\(4\).\(5\)](#) (defining “employee” and “employer” as under C.R.S. § 8-4-101(5),(6), the Colorado Wage Act). The railroad exemption is for only employees covered by the federal Railroad Unemployment Insurance Act.

<sup>5</sup> [C.R.S. § 8-13.3-404\(1\)](#).

<sup>6</sup> Qualifying “family” members are (a) immediate family (related by blood, adoption, marriage, or civil union), or (b) anyone else the employee is responsible for providing or arranging health- or safety-related care for. [C.R.S. § 8-13.3-402\(6\)](#).

- Mabel is also entitled to use HFWA leave. High winds breaking a window can be an “unexpected event,” that requires an employee to evacuate their residence.

**(b) How Much Accrued Leave Employers Must Provide:**

- (i) **1 hour per 30.** All employees “earn” (accrue) **one hour** of accrued paid leave **for every 30 hours** worked, up to **48 hours** per year, starting their first day of work, unless an employer offers more.<sup>7</sup>
- (ii) **Overtime hours.** Overtime-*exempt* employees accrue leave as if they work 40 hours weekly, even if they work more. *Non-exempt* employees accrue leave for all hours worked, including overtime.
- (iii) **Roll-over. Unused** accrued leave, **up to 48 hours** per benefit year, **carries forward** (“rolls over”) to a later year. But employers **need not allow** use of **over 48** hours in one benefit year.<sup>8</sup>

**Example 3:** An employee working 150 hours a month (35 a week) earns just over 1 hour’s accrued leave every week they work — which totals 5 hours a month, reaching the yearly 48-hour maximum after about 9½ months. An employee working 20 hours a week earns 1 hour’s leave every 1½ weeks, reaching 32 hours by year’s end (based on 48 workweeks, excluding holidays and unpaid time off).

**Example 4:** An employee earns 48 hours of accrued leave in a benefit year, and uses 8 of those hours during the year. This means that (A) 40 hours of unused, accrued leave “carry forward” and the employee can use these 40 hours in the next benefit year, and (B) the employee will continue to earn accrued leave, up to an additional 8 hours (for 48 hours total), during the benefit year.<sup>9</sup> Another employee earns 48 hours of accrued leave in a benefit year, and uses none of those hours; so, 48 hours “roll over” for use in the next benefit year, and the employee doesn’t earn any more accrued leave during that year, because they have already been provided with 48 hours for the benefit year.

**Rate of Pay and Benefits:** HFWA leave must be at “the same hourly rate or salary and ... same benefits ... the employee normally earns during hours worked,” on the same schedule (payday) as regular wages.<sup>10</sup>

**(1) Same pay rate.** Whether the employee’s regular pay is hourly or not, pay for leave must be “at least the applicable minimum wage,” and “shall include any set hourly or salary rates, shift differentials, tip credits, and commissions” — but need *not* include overtime, discretionary bonuses, or holiday pay.<sup>11</sup>

**(a) Salaried and similar employees:** If paid (i) a regular wage which (ii) is not reduced or impacted by the use of sick leave, then employers are not required to pay additional sick leave wages to such employees. This applies to salaried employees, and may also apply to commissioned or piece rate employees if (i) the commission or piece is completed and earned over multiple days, weeks, or months, and (ii) use of sick leave does not reduce the employee’s commission or piece rate wages.<sup>12</sup>

<sup>7</sup> [C.R.S. § 8-13.3-403](#). The “year” paid leave accrues is a *calendar* year unless (A) an employer tells employees in writing, in advance, it will use a different annual cycle, and (B) switching to that cycle doesn’t diminish HFWA rights.

<sup>8</sup> [C.R.S. § 8-13.3-403\(3\)\(b\)](#).

<sup>9</sup> For fee-for-service employees without tracked hours, use a best estimate of all “time worked” defined by the [Colorado Overtime and Minimum Pay Standards \(COMPS\) Order](#), 7 CCR 1103-1, Rule 1.9. Other Division Rules explain “time worked” for those working on-call or with indeterminate schedules. [Wage Protection Rules](#), 7 CCR 1103-7, Rules 3.5.1(B), 3.5.2(C)-(D).

<sup>10</sup> [C.R.S. § 8-13.3-402\(8\)\(a\)\(I\)](#); see also [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2.

<sup>11</sup> [C.R.S. § 8-13.3-402\(8\)\(a\)\(II\)](#); see also [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2.

<sup>12</sup> [C.R.S. § 8-13.3-402\(8\)\(a\)\(II\)](#); see also [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2(A)(1).

- (b) **Tipped employees:** If paid below full minimum wage, tipped employees must receive the full minimum wage for leave because wages plus tips must total at least full minimum wage.<sup>13</sup>
- (c) **Commissioned employees:** If paid both a commission and “an hourly, weekly, or monthly wage” as a base rate, the employee’s rate for leave is the base rate or the applicable minimum wage, whichever is higher. If there is no base rate, pay for leave includes “any set hourly or salary rates, shift differentials, tip credits, and commissions.”<sup>14</sup>
- (d) **Employees paid shift differentials:** If the sick leave requested is on a date or shift that would receive the differential, or a variable rate that is known in advance, that is the rate applied to the leave used.<sup>15</sup>
- (e) **Rates that cannot be calculated in advance:** Leave is paid at the employee’s regular rate, calculated based on their pay over the 30 calendar days before the leave, excluding any overtime premiums, bonuses, or holiday leave pay the rate normally includes.<sup>16</sup>

**Example 5:** A car dealership salesperson is paid commissions-only wages based on cars sold, paid the month after the sale is made. In the last week of July, the employee uses one day, or eight hours, of sick leave. At the end of July, the employer pays the employee commissions for all cars sold in June as scheduled. The employer does not need to pay the employee any additional sick leave wages, because the employee was paid exactly the wages they would have been paid regardless of leave.

**Example 6:** A mechanic at the same dealership is paid piece rate based on each vehicle, or piece, serviced. The mechanic also uses one day, or eight hours, of sick leave in the last week of July. If the mechanic is also paid a base, regular, or hourly rate in addition to their piece rate wages, the mechanic is owed eight hours of wages at that base, regular, or hourly rate, or the applicable minimum wage, whichever is higher. If the mechanic has no such base rate, they are owed the “same rate,” or “same wages,” they would have earned as if they had worked. To calculate that rate, the employer will use the lookback calculation based on the employee’s most recent 30 calendar days, or full pay period(s) or work weeks totaling 28 to 31 days.

**Example 7:** (a). On Friday, two restaurant employees request sick leave to use the following Wednesday, before the employer has set next week’s schedule for either employee. The first employee works two jobs, paid at two different hourly rates, for the restaurant — as a server Monday through Thursday and as a manager Friday through Sunday. The employee always works the same eight-hour shift for the employer, from 4 pm to midnight. The employer will pay eight hours of sick leave to the first employee at the higher of their server base rate or the applicable full minimum wage, since they are always scheduled as a server on Wednesdays.

(b). The second employee also works as a server and manager, but does not work a set schedule; instead, they are assigned their role the day of their shift, based on need. They also work different shifts between 4 to 10 hours, also based on need. Because their rate for the leave is unknown, the employer will use the lookback calculation to calculate the employee’s rate for leave. Because the number of hours of leave is unknown, the employer may either: (1) pay the employee the amount of hours actually worked by a replacement employee on that Wednesday; or (2) if the employer is unable to determine the number of hours, they may also use the lookback

<sup>13</sup> [C.R.S. § 8-13.3-402\(8\)\(a\)-\(b\)](#); [COMPS Order](#), 7 CCR 1103-1, Rule 6.2.3; [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2(A).

<sup>14</sup> [C.R.S. § 8-13.3-402\(8\)\(a\)\(II\)\(C\)](#); see also [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2(A)(2).

<sup>15</sup> [C.R.S. § 8-13.3-402\(8\)\(a\)\(II\)](#); see also [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2(A)(3).

<sup>16</sup> [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2(A)(4). An employer may alternately calculate the pay rate over any full pay period, or any consecutive full pay periods or work weeks which total 28 to 31 days prior to taking leave.

calculation to determine the amount of leave used, based on the employee's average number of hours worked per shift, during the most recent 30 calendar days, or full pay period(s) or work weeks totaling 28 to 31 days.<sup>17</sup>

**Example 8:** An employee at a Denver salon works as a stylist and earns a daily base rate of \$150 for eight-hour workdays plus commissions based on both services performed (haircuts, colorings, etc.) and products sold (shampoo, conditioner, hairspray, etc.). The stylist uses eight hours of sick leave in May 2026. The employer owes the stylist the higher of their base rate or the applicable minimum wage. The 2026 Denver minimum wage is \$19.29, multiplied by eight hours is \$154.32, which is higher than the stylist's \$150 daily rate. Therefore they are owed eight hours of wages at the Denver minimum wage.

## (2) Same benefits.

- (a) **Benefits access:** Employees must keep access to the same benefits as during time worked, such as health-related benefits as well as benefit funds (health savings accounts, 401(k) investing, etc.).
- (b) **Contributions and support:**
  - (i) Employers **must** keep contributing to and supporting any benefits based on the employee **earning wages**, or just still being **"on the books"** as an employee.
  - (ii) Employers **need not** make contributions that are based on **only time "worked,"** since HFWA leave is not "worked."

## Employer Policies on Paid Leave: Documentation; Employee Duties & Rights; PTO; CBAs

- (1) **Documentation Policies:** Employers can request **"reasonable documentation"** for accrued leave<sup>18</sup> — with the following **key limits**.
  - (a) **Documentation can be required only** for absences of **four or more consecutive days** the employee would've ordinarily worked (not just four calendar days).
  - (b) **Only "reasonable"** documentation can be required, **not more** than what is **needed to show a valid reason** for leave.
    - (i) For leave for **health-related needs:** If an employee received services (including remotely) from a health provider for a HFWA need, a document from the provider satisfies the employee's document duties. If the employee didn't receive provider services, or can't get a provider document in time or without added cost, they can provide their own writing explaining that leave was for a HFWA need.
    - (ii) For leave for **safety-related needs** (domestic abuse, sexual assault, or criminal harassment): The same rules in (b)(i) above apply, except that also, if applicable, an employee can provide a legal document indicating a safety need for the leave (e.g., a restraining order or police report).
    - (iii) Employers may **not require** that documents be **signed, notarized,** or in any particular **format**.
    - (iv) Employers must allow submitting documents by **any reasonable** method, including **electronically**.

<sup>17</sup> [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.2(B)-(C).

<sup>18</sup> Employers cannot require employees to provide documentation to take, or use, PHE leave. However, an employer can require return-to-work (RTW) documentation if it has a good-faith basis to believe an employee has exposure, that may persist past the leave, to the infectious disease involved in the PHE. Without that basis, disallowing a return without documentation may unlawfully deny or interfere with leave. For example, RTW documentation can't be required after child care leave due to a school closure not based on exposure. As with accrued leave, for PHE leave an employer: can't require documents to be signed, notarized, or in a particular format; must let employees submit documents by any reasonable method, including electronically; and must keep personal health or safety information confidential, separate from other personnel documents, and not disclosed to others without advance written consent.

- (c) Employers may **not require** disclosing **details about health or safety information**. Any such information they receive must be (i) treated as confidential medical records, (ii) kept in separate files from other personnel documents, and (iii) not disclosed to others without advance written employee consent.
- (d) Documentation **cannot be required to take leave**, but can be required as soon as the employee can provide it after returning to work, or (if sooner) separating from employment if they do not return.
- (e) If an employer reasonably **considers employee documentation deficient** (and isn't requiring more documentation than permitted), it must: (i) notify the employee within seven days of either receiving the documentation or the employee's return to work (or separation, if the employee does not return), and (ii) provide the employee at least seven days to cure the deficiency after being notified.<sup>19</sup>

**Example 9:** To be paid for absences, an employer's policy (1) requires a "doctor's note" or another document from a medical provider for any sick leave, (2) sometimes requires documentation for leave of under 4 days, and (3) automatically denies sick leave requests without such documentation. All 3 policies violate HFWA. (1) Employees need not submit "official" documentation from a provider; if they can't get a provider document in a reasonable time or without added cost, or didn't receive provider services, they can submit their own writing. (2) Documentation can't be required if leave is under 4 days, regardless of an employer's reason. (3) If an employer deems documentation deficient, it must give the employee notice and at least seven days to cure the deficiency *before* denying paid leave.

## (2) Employee Duties & Rights: Notice; Unlawful Absence Policies/Replacement Workers; Use of Leave

- (a) **Requiring employee notice:** Employees can be required to give notice "**as soon as practicable**" (reasonably possible), but **only** for "**foreseeable**" leave (e.g., advance-scheduled appointments), unless the employer is closed. An employer "written policy" may adopt "reasonable procedures" on notice of "foreseeable" leave, but "shall not deny paid sick leave ... based on noncompliance" with the policy.<sup>20</sup>
- (b) **Requests:** Employees **need not mention HFWA** as long as they request leave that HFWA gives them a right to take.<sup>21</sup>
- (c) **No consequences:** HFWA leave **cannot be counted as an absence** that may lead to firing or other action against the employee. On-leave employees can't be required to find a "**replacement worker**."<sup>22</sup>
- (d) **Immediate use:** Employees **may use accrued leave immediately upon accrual** (and PHE leave immediately upon a PHE declaration), so employers can't have "**probationary periods**" or **other delays** before employees can use HFWA leave.<sup>23</sup>
- (e) **Increments of time:** An employer may require use of HFWA leave in **one-hour increments, or may require or allow smaller** increments. If an employer does not specify a minimum increment in writing, employees may use leave in increments of a tenth of an hour, *i.e.*, six minutes.<sup>24</sup>

<sup>19</sup> [C.R.S. §§ 8-13.3-404\(6\), -405\(4\)\(b\), -412\(1\)\(2\)](#); [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.6.

<sup>20</sup> [C.R.S. §§ 8-13.3-404\(2\), -405\(4\)\(a\)](#).

<sup>21</sup> [C.R.S. §§ 8-13.3-404\(1\), -405\(1\)](#); see [303 BEAUTY BAR d/b/a SALON LOHI v. DLSS, 23CV31836 \(March 5, 2024\)](#) (finding "[t]he [employee] missed work for a qualifying reason (getting COVID and needing to quarantine). The [employer] knew that. Thus, it had to pay sick pay to [employee] in late 2020." Further, the plain language of the HFWA, the EPSLA [federal paid leave law], INFO #6A, and INFO #6B support the Decision's rationale.").

<sup>22</sup> [C.R.S. §§ 8-13.3-404\(4\), -407\(2\)\(b\)](#).

<sup>23</sup> Employers may correct accrual calculations if, in the ordinary course of business and in good faith, they verify employee hours within a month after the work, and notify employees in writing of any corrections. [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.3(A).

<sup>24</sup> [C.R.S. § 8-13.3-404\(3\)](#); [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.3(B).

(f) **More generous policies allowed:** Employers can offer more leave, allow it for more needs, or allow taking leave before earning it. Such policies may become binding if offered in a way that makes them contractual commitments.<sup>25</sup>

(3) **General “PTO” Policies.** Policies by **any name can comply.** HFWA doesn’t require an employer to provide *additional* leave if it (1) has a policy providing fully paid time off, often called “PTO,” for both HFWA and non-HFWA purposes (e.g., sick time and vacation), *and* (2) makes clear to employees in writing, before an actual or anticipated leave request:

(a) that its leave policy provides PTO —

- (i) in at least an **amount of hours and with pay sufficient** to satisfy the minimum requirements of HFWA and applicable rules (including but not limited to any supplemental PHE leave required),
- (ii) for all the **same purposes** HFWA and applicable rules cover, **not a narrower set** of purposes, and
- (iii) under all the **same conditions** as in HFWA and applicable rules, **not stricter or more onerous conditions** (e.g., accrual, use, payment, annual carryover of unused accrued leave, notice and documentation requirements, and anti-retaliation and anti-interference rights); and

(b) that additional HFWA leave need not be provided if employees use all their PTO for non-HFWA reasons (e.g., vacation), except if a PHE is declared *after* an employee uses all of their PTO for non-HFWA reasons for a benefit year, an employer must still provide supplemental leave.<sup>26</sup>

**Example 10:** An employer’s PTO policy provides employees 100 hours of fully paid time off per year, at the start of each year, for all “personal absences,” including vacation and sick time. It provided employees with compliant notice. On April 1, 2022, an employee takes 100 hours of PTO for vacation, becomes ill with COVID-19 upon returning, and is absent for 10 days. Because the policy otherwise complies with Wage Protection Rule 3.5.4, and the employee already used all 100 hours of PTO for vacation, the employer need not pay for the absence. On the other hand, if the employer *failed to provide notice*, or its policy did not provide *truly “equivalent” leave* (for example, if it imposed disciplinary “points” for calling in sick under 24 hours in advance of their shift), depending on the specific facts of the violation, the employer may be required to pay for the employee’s absence or restore the minimum required amount of HFWA leave as PTO, which may include providing up to 80 leave hours for PHE reasons.

#### (4) Collective Bargaining Agreements (“CBAs”)

(a) An employer that, under a CBA, **already provides “equivalent or more generous” paid leave**, need not provide *additional* paid leave, as long as the ways the CBA differs from HFWA would not diminish employee rights to “equivalent” paid leave.<sup>27</sup>

<sup>25</sup> [C.R.S. §§ 8-13.3-403\(2\)\(a\),\(b\), -403\(6\), -413.](#)

<sup>26</sup> [C.R.S. §§ 8-13.3-403\(4\), -415; Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.4.

<sup>27</sup> [C.R.S. § 8-13.3-415\(3\)](#) (HFWA requirements inapplicable, and so do not require additional leave, if “expressly waived in... [a] collective bargaining agreement” that already “provides for equivalent or more generous paid sick leave”); [Wage Protection Rules](#), 7 CCR 1103-7, Rule 3.5.8.

See also Colo. Senate, [floor debate 6/15/20, at 20:16-22:40](#) (in final HFWA debate, when “conference committee” was raised, and a senator asked “what it did,” two sponsors responded to explain the small employer section (Senator Fenberg), then the CBA section (Senator Bridges): “I want to establish one more time the legislative intent on this. It is *not that you can waive out* in your collective bargaining agreement *any of the protections* ... in this bill. It’s that you can *only accept more generous* terms than are in this bill. ... [F]or instance, the bill requires 1 hour earned for every thirty hours worked, you can waive out of that and instead get one hour earned for every 15 hours. ... [W]e want to make it really clear that, similar to a

(b) CBAs can **decline to address** paid leave, leaving employers to provide paid leave as HFWA requires.

### Employer Paid Leave Records

- (1) **Employer records of paid leave hours:** An employer must retain records for each employee for a two-year period “documenting hours worked, paid sick leave accrued, and paid sick leave used.”<sup>28</sup>
- (2) **Employee requests for paid leave balances:**
  - (a) Employees may request, and employers must provide in writing or electronically, documents showing the then-current **amount** of paid leave the employee has (i) **available** for use and (ii) **already used** during that benefit year (both accrued and supplemental PHE leave).
  - (b) Requests can be once per **month**, but an **additional** request is allowed if a need for HFWA leave arises.
  - (c) Employers may choose a **reasonable system** for such requests.

**No Retaliation or Interference with HFWA Rights.** For more on “retaliation” or “interference” (including on complaints, investigations, remedies, etc.), see the [INFO #5 series](#).

- (1) **Unlawful acts under HFWA** include **denying** paid leave that an employee has a right to take, or any **threat or other adverse action** (which includes firing, demoting, reducing scheduled hours, suspending, disciplining, etc.), that is done to retaliate against, or interfere with, either:
  - (a) requesting or taking paid leave under HFWA, or attempting to exercise other HFWA rights;
  - (b) informing another person about, or supporting their exercise of, their HFWA rights; or
  - (c) filing a HFWA complaint, or cooperating in any investigation or other proceeding about HFWA rights.<sup>29</sup>
- (2) **No waiver is allowed in a policy or agreement.** Any agreement to “waive” (give up) employee rights under HFWA is “void” (not enforceable) (C.R.S. § 8-13.3-418), just as wage law voids any agreement “to waive or to modify” rights to any wages due (C.R.S. § 8-4-121). The one exception is the waiver of specific paid leave rules in collective bargaining agreements that don’t diminish the amount or availability of paid leave (above).
- (3) **Paid leave cannot be counted as an “absence”** that may lead to firing or other action against the employee. (C.R.S. §§ 8-13.3-404(4), -407(2)(b)).

**Example 11:** Nancy writes a disciplinary plan for her direct report, Ethan. The plan outlines specific deadlines for his upcoming projects and restricts Ethan from using any sick leave while on it. This violates HFWA because it interferes with an employee’s right to use sick leave they are entitled to. Even if Ethan signs the plan, the agreement is not enforceable.

**Employer Posting and Written Notice Duties.** Employers must both (1) notify employees in writing of the right to take paid leave, in the amounts and for the purposes in HFWA, without retaliation, and (2) display an [informational Division poster](#).<sup>30</sup>

- (a) **Method.** Requirement #1 (notice) can be satisfied by giving employees copies of the latest version of this INFO or the poster (on paper or electronically). Requirement #2 (posting) is satisfied by displaying [the Division poster](#) “in a conspicuous and accessible” place in “each establishment” where employees work.

minimum wage increase, *you don’t need to open up your collective bargaining agreement to increase the wages of folks making less than that new wage, this is simply something that goes on top of existing collective bargaining agreements.”*)

<sup>28</sup> [C.R.S. § 8-13.3-409\(1\)](#).

<sup>29</sup> [C.R.S. §§ 8-13.3-402\(10\), -407](#).

<sup>30</sup> [C.R.S. § 8-13.3-408](#). Both requirements are waived if an employer’s business is closed due to a public health emergency.

- (b) **Timing.** Employers should provide (i) notice to new employees promptly, no later than other onboarding documents or work policies are provided, and (ii) any updated notices and posters for current employees by the end of the calendar year, after the Division’s publishing of any annual updates.
- (c) **Remote employees.** For employees working remotely, and for all employees of employers without a physical workspace, complying with requirement #1 (notice) is enough, and can be done electronically.
- (d) **Translation.** Employers must provide notices and posters in any language that is the **first language spoken by at least 5% of its workforce**. For versions in Spanish or other languages, and **for the latest versions**, see the Division’s [INFO](#) and [poster](#) pages.

### Employee Complaint Rights and Remedies

- (1) Because HFWA paid leave **counts as “wages”** under Colorado law, an employee denied paid leave can [file a complaint with the Division for unpaid wages](#).<sup>31</sup> For more on the wage claim process, see [INFO #2](#).
  - (a) Departing employees **need not be paid for unused** paid leave — but **may recover** pay for leave they did **not get to take** due to unlawful retaliation or interference.
  - (b) The Division investigates **all unpaid wage** claims, but only **some retaliation** claims. For more on the retaliation claim process, see [INFO #5C](#).
- (2) Employers that **fail to give HFWA leave**, or **HFWA rights notices**, may face **additional penalties and fines**. For more on penalties and fines, see [INFO #2B](#) and (as to retaliation or interference) [INFO #5C](#).

**For More Information:** Visit the Division [website](#), call 303-318-8441, or email [cdle\\_labor\\_standards@state.co.us](mailto:cdle_labor_standards@state.co.us).

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<sup>31</sup> [C.R.S. § 8-13.3-402\(8\)](#).