

Listening Session: Southeast Asian Employees & Employers

The Workplace Partnership Group conducted a listening session on Wednesday, January 27, 2016, to engage the Southeast Asian community. The session was conducted at the Hmong American Mutual Assistance Association, 4024 Washington Ave N, beginning at 2:40 p.m. Participants were invited to provide their perspectives in response to a pre-arranged set of questions related to policy issues concerned with earned sick time and paid time-off (PTO). The following is a summary of feedback from this listening session.

PARTICIPANT FEEDBACK

[The following questions established the broad framework within which participants were invited to provide feedback.]

Question #1. How broadly or narrowly should the City of Minneapolis consider coverage to effectively address the public health and equity concerns associated with policies related to earned sick time and paid time-off?

Question #2. How should paid sick time and/or paid time-off be used? What are your experiences in offering this kind of coverage, or in using paid sick time?

Question #3. How should paid sick time and/or paid time-off be earned? Should it vary by hours worked, business sector, revenue, number of employees? Should it be capped?

Question #4. What, if any, measures should be considered to ensure workers are not penalized for using paid sick time, and to ensure that employers are not subject to undue hardship or abuse of such policies?

One participant, the owner of a small business, said she worked 7 days per week to support her family and keep their business operational. She said her business has approximately 8 employees, though this can and does fluctuate and isn't a firm number. Because of the small size of her business, she said she did not offer her employees paid sick time or PTO. In the current economy, she said things were very difficult and, like many other small business owners, she struggled to maintain low, competitive prices. Consequently, she said a mandate requiring paid sick time for all employees uniformly applicable to all businesses across sectors would present a significant challenge.

Some participants questioned if any exceptions to a municipal policy would be provided, and, if so, what considerations would be given to the types of allowances that might be used to grant the same; for example, business size, number of employees and/or number of full-time versus part-time employees, or annual revenues. The significant differences between large corporations compared to small-sized businesses, especially very small employers and micro-businesses, were factors that most thought should be considered for possible exception to an across-the-board policy mandate. Also, participants expressed concern for the possible negative impact on nonprofit organizations, where budgets and funding streams fluctuate from year to year; in particular, concern for social-justice oriented nonprofit organizations which—on the surface—are generally very supportive of a paid sick time policy.

One participant, an employer, indicated that—based on the data from comparable jurisdictions where similar policies had already been enacted, and also based on preliminary calculations on potential cost implications—he would likely reduce his business's overall headcount, pass along as much of the cost in prices to customers (if possible), and accommodate the needs of the workforce to the greatest degree possible. Still, it was acknowledged that those workers most affected by a lack of access to paid sick time or PTO are those in the small business sector, in particular those who frequently work in part-time positions or

less than full-time capacities. Another small business owner—pointing to the potential budgetary impacts—said it was likely that, if such policy were enacted, he would look to relocate his business outside Minneapolis. He said this was a significant concern among the Asian business owners with whom he had spoken about this policy proposal. It was noted that within the Southeast Asian community there were a number of small “mom-and-pop” businesses.

One participant said that exemptions for small businesses might make the proposal more attractive to employers; however, he also recognized the need to address whether part-time employees would also be covered. If part-time employees were not subject to the policy mandate, that might provide enough flexibility to enable business owners to determine the type and amount of workers for their operating needs, particularly for very small and micro-businesses. He said it would be unusual if the city attempted to enforce a universal policy that would provide leave benefits to part-time workers, since that was not the norm now, just based on traditional approaches.

One worker noted that she, and many workers like her, held multiple part-time jobs with different employers in different businesses or sectors. In many cases, this was a choice; in others, it was necessity. In either case, these workers—who struggled to make ends meet—were especially challenged and found it difficult to negotiate for vital benefits like paid sick time or PTO. For many people, an illness could become the beginning of a downward spiral with serious consequences for vulnerable, at-risk populations.

In response to clarifying questions, one participant questioned what leverage the city might have—including financial incentives—to promote compliance, rather than relying solely on enforcement. Some said they supported the policy because of its tie to public health purposes, to provide much-needed security for individual employees in addressing their personal healthcare needs as well as the healthcare needs of their families. Some participants felt it would be important to provide for a cap on accruals given the potential long-term financial liability if employers were allowed to accrue unlimited hours of paid leave that might need to be paid out. Participants also supported limitations on any full cash-out option under which an employee could bank leave accruals and carry over those balances from year to year, and thereby put a significant liability on business owners.

In many companies, when a worker is absent for 2 or more consecutive days, certain documentation, usually a doctor’s note, is required to verify the illness and allow access to paid sick time. Participants expressed hope that the city would work with healthcare providers to make adjustments in the documentation requirements in order to maximize flexible access to and use by employees to earned leave benefits.

In response to clarifying questions, one participant indicated that, within the Southeast Asian community, some cultural traditions might pose challenges that the city would need to consider; for example, after giving birth, a new mother is expected to be given a full month for self-care and recovery, and her husband (and family members) are expected to tend to her recovery during that time. Similarly, funeral rites in the Southeast Asian culture required 24-hour vigils over a defined period of days. Those kinds of social traditions required Hmong workers, as one example, to be absent from the workplace for extended periods of time that are not typically not addressed under traditional sick time or PTO policies.

Another participant suggested that a policy should include clear definitions between “sick time” and the more generalized “paid time-off.” And, in that regard, if the underlying issue is truly access to paid sick time, then consideration about the types of accruals for sick time should be incorporated; for example, accruals for use by the employee for their own healthcare needs and a separate accrual of paid time off for use by the employee to care for family members, which could include the immediate family of the worker as well as more extended members of the worker’s family.

In discussion, one participant pointed to existing state laws that required where paid sick time or paid time-off policies are in place the access to those benefits must be made available for use by employees for themselves as well as their dependent family members. Thus, if the city enacted a policy mandating paid sick

time or PTO, it was assumed that the provisions of the state law would impact how accruals could be used; meaning that, if that local policy were implemented, an employee would be eligible to use their accrued time for their own needs as well as for the care of their family members. This would equally apply to the new state policies related to “safe time.”

A participant, noting he had previously worked for Minneapolis Public Schools, questioned if the city had authority to enforce a paid sick time policy on the local school district and other government units operating within the borders of the City of Minneapolis, including employees in the county government, the school district, and other government units. Another participant questioned how a city policy might be impacted by other unemployment laws, whether federal or state. Another participant questioned whether the proposal might address the potential wage theft for hourly/shift workers—especially part-time workers—who often work some period of time after official closing, but often don’t receive credit or recognition for that additional amount of time worked. That was a part of the former Working Families Agenda, and was critical to the goals of equity and fair workplace policies, according to some participating in the listening session. Referring to this issue of wage theft, some wondered if that period of time actually worked after a business supposedly closes to the public be counted toward the accruals under a city sick time policy? These questions needed to be addressed, with answers to how a city policy might interact with other laws related to secure, paid leave benefits and unemployment laws provided, according to the members of the Workplace Partnership Group in attendance.