Sample language you can use in your handbook

Sick Leave Pay/Kin Care- Sick Leave Pay/Kin Care- [Editor’s Notes Guidance: Please note that California’s new sick leave law requires these sick leave benefits to be available starting July 1, 2015. As the recommended 2014 policy already essentially met the requirements, however, we are making changes now to the policy to be compliant. Please also note that the recordkeeping requirements contained in the new sick leave law are effective January 1, 2015; thus, as of January 1, 2015, employers must use the new DLSE “Notice to Employee” form, post the new sick leave requirement, and modify pay stubs accordingly. The revised “Notice to Employee 2810.5” and poster can be located by going the “Graphic Arts Industry Resources center”, under “Human Resources, and then Pre-Employment and Employment Posters.”]

(Option 1) [Editor’s Note: As the recommended following 2014 policy already essentially met the requirements, however, we are making changes now to the policy to be compliant. If you use this approach of having an amount certain dropped into each employee’s leave bank at the beginning of each year, the amount must be at least 24 hours. Whether this amount can be pro-rated is not clear and the conservative approach is to give each employee at least 24 hours in their banks.]

Each eligible new hire, will have, at the start of employment, available (______________) hours of paid sick leave. The employee further will have (______________) hours of sick leave pay available at the beginning of each succeeding anniversary date, which can only be used during the following 12 months of employment. Sick leave available for a particular anniversary year cannot be carried over to future anniversary years nor will the remaining available sick leave be paid at the end of employee's current anniversary year. Likewise, employees terminating employment will not be paid any unused sick leave still available to them.

(Option: All current employees, as of July 1, 2015, will have (______) hours of sick leave available to them. The employee further will have (______________) hours of sick leave pay available at the beginning of each succeeding July 1st, which can only be used during the following 12 months of employment. Sick leave available for a particular year (July 1 to June 30 the following year), cannot be carried over to future years nor will the remaining available sick leave be paid at the end of employee's current year. Likewise, employees terminating employment will not be paid any unused sick leave still available to them.)

In order to be eligible for paid sick days, employees must work in California for 30 or more days within a year. The sick leave pay may be used by employees following 90 days of employment. The sick leave pay is available to employees who are medically not able to perform their normal duties or for quarantine of the employee for avoidance of spread of disease. A portion of the employee’s available sick leave pay can be used as Kincare to attend to ill family members, which are defined as an employee’s child, parent, domestic partner or spouse, grandparent, grandchild or sibling. This portion is equivalent to 50% of the total annual sick leave provided in this policy, or (______________) hours.

Sick leave is also available if an employee, or a member of an employee’s immediate family, has been the victim of a crime, domestic assault, sexual violence and/or stalking and the employee needs to take time off in order to attend related judicial proceedings or to seek psychological
counseling services, medical services, safety planning services, or shelter/crisis center services related to the crime, domestic violence, sexual assault or stalking.

Verification of the employee’s illness, or need to attend to an immediate family member or domestic partner who is ill, may be required by the Company in order for payment to be made. [EDITOR’S NOTE: you should not request the underlying diagnosis, however.]

Paid sick leave time is not counted as hours worked for the purpose of computing weekly overtime.

(Option 2: accrual method) The Company provides paid sick leave to eligible employees. In order to be eligible for paid sick days, employees must work in California for 30 or more days within a year. The prescribed purposes for such sick leave permit use for an employee’s own illness, quarantine of the employee for avoidance of spread of disease, a family member’s illness.

Sick leave is also available if an employee, or a member of an employee’s immediate family, has been the victim of a crime, domestic assault, sexual violence and/or stalking and the employee needs to take time off in order to attend related judicial proceedings or to seek psychological counseling services, medical services, safety planning services, or shelter/crisis center services related to the crime, domestic violence, sexual assault or stalking.

Employees may use up to ½ their annual sick leave accrual to care for ill family members. Ill family members are defined as child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling.

Employees will accrue paid sick days at the rate of one hour for every 30 hours worked for the Company. New employees are entitled to use accrued paid sick days after completing (90) days of employment. Paid sick leave will carry over to the following year of employment. (Option: All current employees, as of July 1, 2015, will accrue paid sick days at the rate of one hour for every 30 hours worked for the Company. Paid sick leave will carry over to the following July 1st) Employees total accrual of paid sick leave will not exceed 6 days or 48 hours and thus, carry over is limited to 6 days or 48 hours. Regardless of carryover and accrual, employees are limited in their use of paid sick days to 24 hours or three (3) days in each year of employment (Option or for current employees the following July 1st) and no accrued, but unused sick leave will be paid out at termination of employment. [Editor’s Note: the limitation on use to 24 hours per year is permitted by law, but not required; an employer can choose to eliminate that use limitation or use a different number up to the cap of 48 hours.] [Editor’s Note: although employers with many part-time employees are able to use either Option 1 or 2 with regard to sick leave, it is likely that such employers may prefer to use Option 2, the accrual method, as that may result in less overall sick time based on the accrual method. Employers should carefully analyze which option will best suit their needs and their budgets.]

Verification of the employee’s illness, or need to attend to an immediate family member or domestic partner who is ill, may be required by the Company in order for payment to be made. [EDITOR’S NOTE: you should not request the underlying diagnosis, however.]
Paid sick leave time is not counted as hours worked for the purpose of computing weekly overtime.

*(Option 3) [Editor’s Note Explanation:]* In lieu of an employer using separate Vacation, Sick, and/or Holiday provisions, an employer can instead choose to use a paid time off (PTO) policy. If an employer chooses to use PTO, some special rules apply including, but not necessarily limited to, the following: (1) the entire amount is accrued and vested, and any accrued, but unused amount must be paid to the employee at the time of separation from employment; (2) you should place a maximum cap on accrual which can be no less than 1.25 the annual accrual amount, but, only where that amount meets the numbers required by the sick leave law of at least 48 hours carried over each year; (3) the amount offered to the employee must comply with the new sick leave law in that the employee will be provided with at least either the accrual or lump sum method amounts of sick leave that are required by law – generally, if you are using PTO, the method used will likely be accrual, and best is that it is more than the sick leave required by law; (4) up to one-half the entire PTO amount must be available as kin care leave, e.g., to attend to the illness of a covered family member. We would request that employers wishing to utilize PTO, or to make sure they address the new sick leave law in their existing PTO, consult PIASC or their own legal counsel with regard to the specifics of their proposed PTO policy and whether it satisfies all law requirements.*