



Fact Sheet

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Paid Sick Days and Employer Penalties for Absence

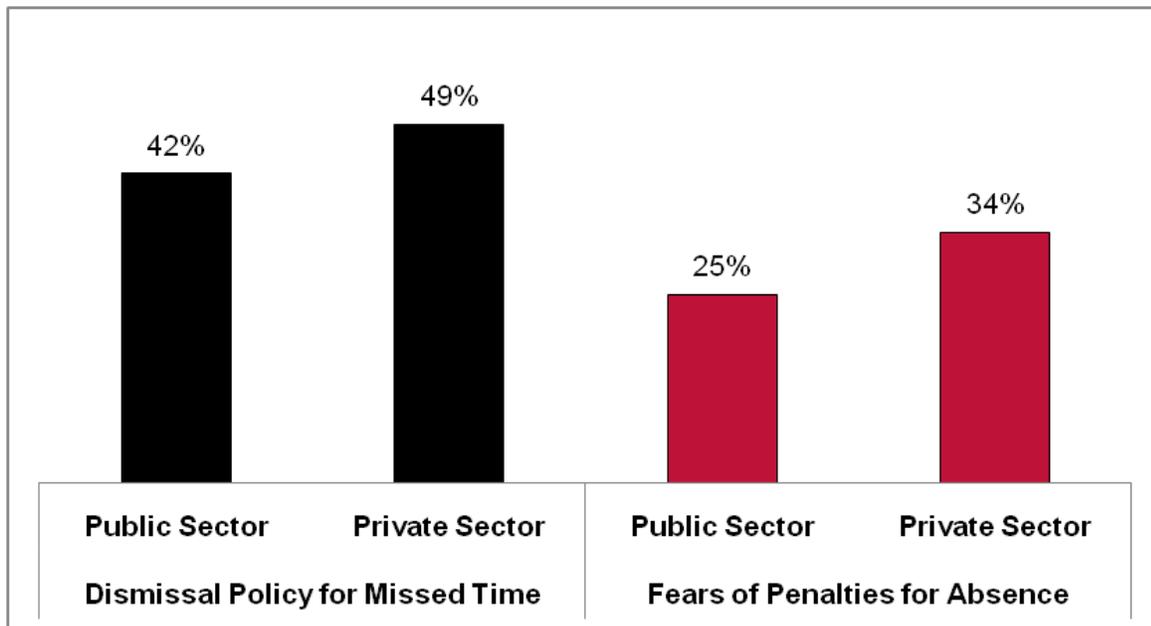
Paid sick days laws, including those in San Francisco, CA, and Washington, DC, as well as many proposed elsewhere and nationally, include anti-retaliation provisions: if an employee uses paid sick days for an appropriate purpose, they cannot be fired, demoted, or otherwise penalized as a result.¹ Most employees in the United States, however, have no such legal protection, and may face retaliation if they take time off when sick.²

This fact sheet provides new findings on the extent to which employees with paid sick days either operate under policies that could lead to dismissal for missed time or, more generally, fear employer penalties for the use of paid sick days (or any time off from work), using data from the IWPR/Rockefeller Survey of Economic Security.

Employees with paid sick days coverage were asked two relevant questions.³ The first concerns whether the employer tracks work attendance and has “policies such that you would lose your job if you missed too much time, regardless of the reason for absence” (this wording encompasses paid sick time as a possible reason for absence). The second question concerns whether the respondent or other employees at the workplace are “afraid that being absent from work will lead to penalties in terms of low raises, limited promotions or poor task assignments.”

Comparing only those employees who have access to paid sick days, employees in the private sector are more likely than public sector workers to report dismissal policies for missed time, regardless of the reason for absence (49 percent versus 42 percent, see Figure 1). Private sector workers are also more likely (by 9 percentage points) to report fears of negative consequences for missing work.

Figure 1. Employees with Paid Sick Days in the Public and Private Sectors Dismissal Policies and Fears of Employer Penalty

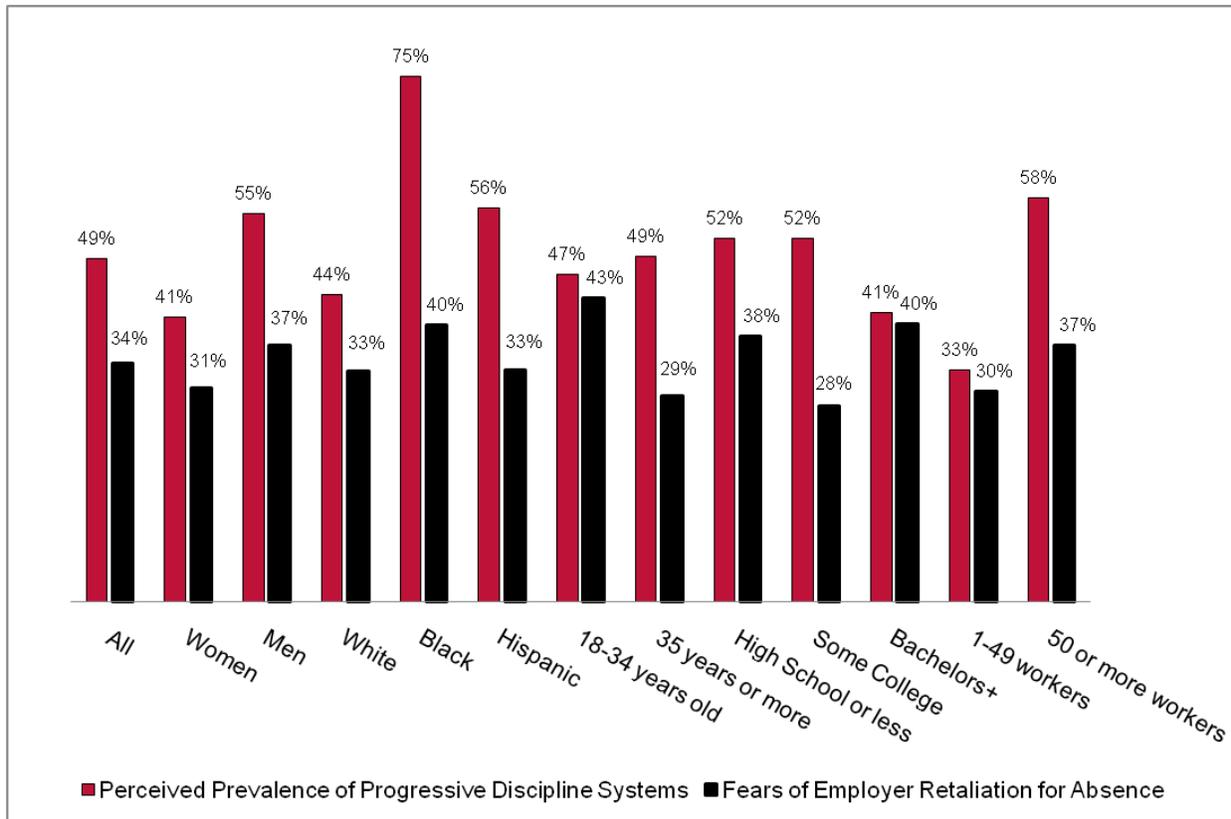


Source: IWPR/Rockefeller Survey of Economic Security, 2010.

These results suggest that potentially inappropriate penalties for work absences are a more serious problem in the private sector. According to the National Compensation Survey, paid sick days coverage is provided to 62 percent of private sector workers but 89 percent of state and local government employees, so paid sick days laws—and anti-retaliation provisions—would primarily affect the private sector. For those reasons, the remainder of the analyses focus exclusively on private sector employees.

Figure 2 provides information on the perceived prevalence of dismissal policies with formal tracking of attendance. Men are 14 percentage points more likely than women to report dismissal policies. Black employees are more likely (75 percent) to report such policies than are Hispanic employees (56 percent) or white employees (44 percent). Employees with relatively low levels of education, and employees working in larger establishments are more likely to report that they are subject to dismissal policies.

Figure 2. Private Sector Employees with Paid Sick Days, Perceived Prevalence of Dismissal Policy and Fears of Employer Penalties for Absence

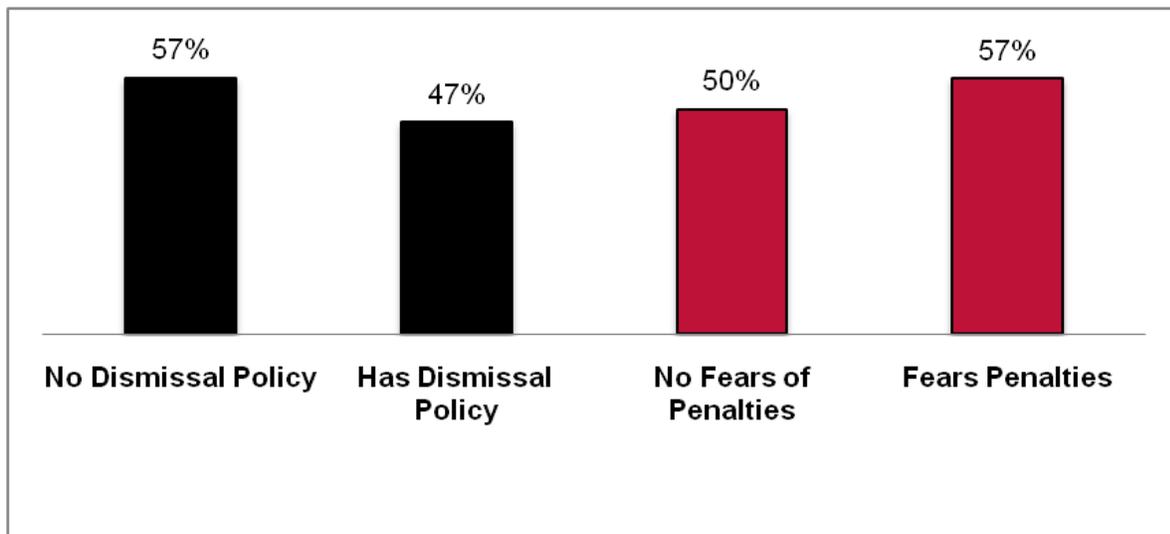


Source: IWPR/Rockefeller Survey of Economic Security, 2010.

Results for employee fears of penalties for absence are also presented in Figure 2. Differences according to gender and race are much smaller, with black workers 7 percentage points more likely to report fears of penalties than either white or Hispanic workers. Employees age 18–34 are 14 percentage points more likely to report fear of penalties than workers 35 and older, and employees with either low (i.e. high school or less) or high (at least a bachelor’s degree) levels of education report higher levels of fear.⁴

Figure 3 shows, for employees with access to paid sick days, the percentage of respondents who used any days for their own health needs during the previous year, according to whether they do or do not report the existence of an absence-related dismissal policy, and whether they fear employer penalties for absence. Employees were more likely to report paid sick days use in the absence of a dismissal policy, consistent with the possibility that the policies function to control absence by changing employee behavior or by causing workers who use paid sick days to (voluntarily or involuntarily) seek employers without such policies. Employees who report fearing employer penalties are, however, *more* likely to report the use of paid sick days. This finding is somewhat surprising, since employees who fear penalties have an incentive to avoid using paid sick days. It may be the case that employees are unaware of the potential for negative employer actions until they use paid sick days.

Figure 3. Private Sector Employees with Paid Sick Days, Percent Reporting Paid Sick Days Use for Own Health by Dismissal Policy or Fears of Employer Penalty



Source: IWPR/Rockefeller Survey of Economic Security, 2010.

Methodological Notes

The data in this fact sheet are from the IWPR/Rockefeller Survey of Economic Security. The national survey of 2,700 adults (aged 18 years and above) was administered between September and November of 2010 by Precision Opinion; 1,030 respondents were employed at the time of the survey. The survey data were weighted to reflect the non-institutional population of the United States using data from the 2009 American Community Survey, produced by the U.S. Bureau of the Census.

References

Drago, Robert. 2007. *Striking a Balance: Work, Family, Life*. Boston: Dollars & Sense.

Muhl, Charles J. 2001. "The Employment-at-will doctrine: Three major exceptions." *Monthly Labor Review*, January, 3-11.

Bureau of Labor Statistics (BLS). 2010. Employee Benefits in the United States News Release (USDL-10-1044) < <http://www.bls.gov/news.release/ebs2.htm> > (accessed June 22, 2011).

¹ An employee can be required, under some circumstances, to provide documentation regarding the reason for use of paid sick days, and failure to provide documentation could result in penalties.

² Most jobs in the United States are governed by the “employment-at-will doctrine,” which holds that employees can be “fired for good cause, bad cause, or no cause at all.” (Muhl 2001, p. 3) Employee protections against immediate firing for the legitimate use of paid sick days often take the form of “progressive discipline” policies, whereby “excessive” absence results in a first step (e.g., verbal counseling) then, if improvement does not follow, additional steps, with the final step involving termination of employment. See, for example, the Employee Handbook for Lehman College staff operating under Civil Service rules <<<http://www.lehman.edu/human-resources/documents/civil-service-handbook.pdf> >> (accessed June 19, 2011). Public sector employees, or employees working under a collective bargaining agreement, may be covered by explicit progressive discipline policies.

³ Respondents could answer “yes,” “no,” “don’t know,” or “refused”. For the analyses, refusals were excluded, and “don’t know” was considered a “no” response. If “don’t know” is excluded from the dismissal policy and employee penalty data, the average positive response rises by approximately six percent and three percent, respectively, suggesting the approach used here, if anything, understates the results.

⁴ The last finding may reflect the existence of the “ideal worker norm” among managerial and professional employees; that norm holds that long work hours and infrequent absences are primary gauges of employee commitment and value to the employer (Drago 2007).

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