

BC EMPLOYMENT STANDARDS COALITION

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The BCESC acknowledges that we are located on the traditional and unceded territory of Coast Salish peoples including xʷməθkʷəy̓əm (Musqueam), səliłwataʔ (Tsleil-Waututh), Skwxwú7mesh (Squamish) territories

August 24, 2021

Honourable Harry Bains
Minister of Labour
Room 342 Parliament Buildings
PO Box 9064 StnProvGovt,
Victoria, BC, V8W 9E2

Dear Minister Bains:

Re: Permanent Paid Sick Leave Consultations

The BC Employment Standards Coalition met on August 11th to consider its response to your Ministry's August 5th consultations announcement and launch of two on-line surveys relating to the number of permanent employer-paid sick leave days to be written into the *Employment Standards Regulation*.

We can advise that we welcome and applaud your government's action in May in finally establishing a permanent paid sick leave provision in the *Employment Standards Act*. It is well known that the majority of workers in B.C. do not have access to paid sick leave ([BC Employment Precarity Survey](#) (2019)). We also know that there is widespread public support for this public health policy initiative. This is an historic step forward that will benefit workers, employers, and the larger community. However, we are critical of elements in your public consultation process, especially the absence of stakeholder consultation on the design of the on-line surveys and the delay of stakeholder consultation until after the on-line surveys have been concluded and model options have been developed for public feedback and input.

Because of these criticisms we are skeptical that the resulting paid sick leave model options will reflect the health and human rights needs of all workers equitably, and significantly enhance the public health environment of the province as a whole.

Our criticisms of the on-line survey include the following:

Design of the Survey

1. The surveys are not sufficiently rigorous so as to produce statistically reliable data.
2. The surveys are open to manipulation and false representation (for example, respondents can easily misrepresent themselves).

3. The survey of workers doesn't ask how many paid sick leave days they would like to see in the *Regulation* but the employer survey does ask this question. The public engagement process is weakened without obtaining this crucial input from both workers and employers.
4. The workers' survey does not indicate that those who work in the gig economy, are contractors, or who are otherwise are not classified as 'employees' under the *Employment Standards Act* would be eligible for the government's proposed paid sick leave program. There is concern that that gig workers, contractors, and other workers not classified as an employee under the *Employment Standards Act* will not have access to paid sick day leave, based on their employment status.

Accessibility of the Survey

5. The timeframes associated with each phase are problematic. First, there is a problem of accessibility to the surveys during the first phase (Aug. 5 – Sept. 14). This is an incredibly narrow timeframe to complete the surveys. It's also open at a time when many workers are on vacation or away from home. Second, the timeframe between the end of the survey to the public posting of the proposed model(s) for B.C. paid sick leave program (Sept. 14 - Oct. 20) is obviously quite short and suggests that the survey results will not adequately affect the design of the proposals.
6. There is an expected barrier related to accessing the internet for some workers, especially those in precarious low paid jobs, and those living and working in rural areas.
7. The workers' survey is not available in Spanish. This is surprising given the high number of Spanish speaking workers in the province. It's also only available in a few languages, likely creating barriers for many immigrants and migrants to participate in the survey.

Questions for Workers

8. The workers' survey does not focus on the question of how many permanent paid sick leave days should be established in the *Regulation*.
9. There are no open-ended questions to allow for workers to express their views and needs with respect to the number of employer paid sick leave days that should be covered by the new legislation.
10. Workers are not asked if they ever acquired an infectious disease at work.
11. Workers are not asked if any of their co-workers continued to work when they are sick.
12. Workers are not asked if they know if any of their co-workers contracted an infectious disease at work.
13. Workers are not asked if they have been required to work in their employer's homes when their employer or the clients they care for in a home were sick with an infectious disease.
14. Home care services is a significant industry in the province but is not included in the industry identification options, thereby rendering care workers invisible to the survey.
15. If a worker responding to the survey is in multiple part-time or casual jobs with multiple employers, the worker is asked to answer the questions in relation to only one of the jobs and is not instructed to complete another survey for other jobs held.
16. Both surveys ask if workers have access to paid sick leave if they miss a day of work due to COVID-19. Current temporary legislation allows for up to 3 days of employer-paid,

government subsidized, sick leave related to COVID-19 (in effect May 2021 - December 2021). Therefore, respondents should have been instructed to answer the question ignoring/not counting this temporary paid sick leave provision.

Questions for Employers

17. Employer respondents are not asked what position they hold in the company,
18. Employers are not asked whether they are an owner or a manager without an ownership interest.
19. There is too great a focus on a small number of sick days that employers could operate with, and there should be no suggestion that employers may not be responsible for paying for legislated paid sick leave under the *Employment Standards Act*. Under no current provision of the Act are employers relieved of paying for a benefit provision, and it should not be contemplated for the future.

However, be advised that although we have these serious criticisms of your consultation process, we will not be discouraging workers from participating in the on-line survey.

Respectfully,

David Fairey & Kaitlyn Matulewicz
Co-Chairs, BC Employment Standards Coalition