

COUNTY OF SANTA CLARA

Office of the Sheriff

55 West Younger Avenue
San Jose, California 95110-1721
(408) 808-4605



Laurie Smith
Sheriff

MEMORANDUM

TO: All Staff

FROM: COVID-19 Incident Command Center

SUBJECT: ICC Directive 21-06 (Supplemental Paid Sick Leave Update)

DATE: April 5, 2021

On April 2nd, 2021, the County provided an update to the COVID-19 guidance for Supplemental Paid Sick Leave. The guidance conforms to California Labor Code 248.2, which provides supplemental paid sick leave, effective March 29, 2021 through September 30, 2021. Please read the attached County of Santa Clara Memo and Department of Industrial Relations fact sheet for further guidance.

Timekeeping guidance will be provided at a future date once the new pay codes are activated in Kronos. Employees should continue to use available sick leave until the new pay codes are available and time adjustments can be submitted and processed for any eligible uses of SPSL.

If anyone has questions regarding the Supplemental Paid Sick Leave, you are encouraged to contact the Personnel Division at (408) 808-4611 (M-F 0800-1700).

To submit a request to your supervisor, the following request forms need to be completed.

Supplemental Paid Sick Leave Request Form:

<https://employeeservices.sccgov.org/sites/g/files/exjcpb531/files/Documents/2021-Supplemental-Paid-Sick-Leave-Request-Form.pdf>

Retroactive Supplemental Paid Sick Leave Request Form for COVID-19 related absences prior to March 29, 2021:

https://employeeservices.sccgov.org/sites/g/files/exjcpb531/files/Documents/2021-Retroactive-Supplemental-Paid-Sick-Leave-Request-Form_0.pdf

Please note the following:

Signed request forms must be submitted via email to Lt. Michelle Asban at michelle.asban@shf.sccgov.org upon receipt without delay to ensure timely processing. Supervisors and employees **must sign** the form in order for it to be accepted.

County of Santa Clara

Employee Services Agency

Agency Administration

County Government Center, East Wing
70 West Hedding Street, 8th Floor
San Jose, California 95110-1705



DATE: April 2, 2021

TO: Agency/Department Heads
Executive Leadership Group
Departmental Human Resources Liaisons
Departmental Timekeepers

FROM: John P. Mills, Director, Employee Services Agency

DocuSigned by:
John P. Mills
1EC2B4BD820B494...

SUBJECT: UPDATED COVID-19 GUIDANCE FOR SUPPLEMENTAL PAID SICK LEAVE

The County of Santa Clara continues to provide vital services to ensure the health and safety of the community, while also addressing the needs of County employees serving the public at this most critical time during the COVID-19 pandemic. In the past 13 months, the County workforce has met the challenges posed by this unprecedented event with extraordinary creativity, flexibility, and dedication by necessity.

As the situation continues to slowly improve and new information becomes available, the County workforce will need to exercise continued diligence. The following guidance supersedes previous guidance regarding employee timekeeping and optional benefits for eligible employees. This guidance addresses California Labor Code §248.2, which provides for Supplemental Paid Sick Leave, effective March 29, 2021 through September 30, 2021.

Supplemental Paid Sick Leave

In conformance with the recently amended California Labor Code §248.2, the County shall provide eligible employees with up to 80 hours of Supplemental Paid Sick Leave. The maximum compensation provided for Supplemental Paid Sick Leave is \$511.00 per day and \$5,110 in the aggregate. Part-time and Extra Help employees should not be permitted to use more Supplemental Paid Sick Leave hours than their normally scheduled hours during any pay period. For example, a twenty-hour part-time employee (0.5 code) should not receive more than 20 of their allotted hours each workweek.

If not used for a qualifying purpose, the 80 hours of Supplemental Paid Sick Leave will expire on September 30, 2021. These hours are not subject to sick leave payout provisions as part of any labor agreements or County Ordinance Code.

Frequently Asked Questions

When is an employee entitled to use Supplemental Paid Sick Leave?

County employees are eligible for Supplemental Paid Sick Leave (SPSL) for the following reasons in accordance with California Labor Code §248.2, which states:

- A. The covered employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the State Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer who has jurisdiction over the workplace. If the covered employee is subject to more than one of the foregoing, the covered employee shall be permitted to use COVID-19 supplemental paid sick leave for the minimum quarantine or isolation period under the order or guidelines that provides for the longest such minimum period.
- B. The covered employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- C. The covered employee is attending an appointment to receive a vaccine for protection against contracting COVID-19.
- D. The covered employee is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework.
- E. The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- F. The covered employee is caring for a family member, who is subject to an order or guidelines described in section (A), above, or who has been advised to self-quarantine, as described in section (B), above.
 - 1. A child (A biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis. This definition of a child applies regardless of age or dependency status.).
 - 2. A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
 - 3. A spouse.
 - 4. A registered domestic partner.
 - 5. A grandparent.
 - 6. A grandchild.
 - 7. A sibling.

G. The covered employee is caring for a child, whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises.

1. A “child” is defined as a biological, adopted, or foster child; stepchild; legal ward; or a child to whom the employee stands in loco parentis. This definition of a child applies regardless of age or dependency status.

How do I request Supplemental Paid Sick Leave?

Complete the Supplemental Paid Sick Leave request form and submit to your supervisor, along with any supporting documentation. The request form can be found at the following link:

<https://employeeservices.sccgov.org/sites/g/files/exjcpb531/files/Documents/2021-Supplemental-Paid-Sick-Leave-Request-Form.pdf>

My regular compensation exceeds \$5,110 for 80 hours/a full pay period. What will happen when I reach the maximum compensation cap and I continue using my allotment of SPSL?

Employees whose regular gross income exceeds \$5,110 per pay period may choose to take any SPSL hours that exceed the compensation cap as unpaid time off or supplement with their other available leave accruals, if any, to maintain their regular compensation rate.

Will Part-time and Extra Help/Temporary employees receive Supplemental Paid Sick Leave?

Yes, all active employees, regardless of code status, will receive 80 hours that may be used for COVID-19 related absences.

What if an employee is absent for a reason unrelated to COVID-19?

Employees should use other appropriate accrued leave to cover absences not related to COVID-19. If you are unsure if the request for leave is related to COVID-19, you should ask your manager/supervisor or contact your department’s Employee Service Center.

What other options are available for employees whose schools or daycare facilities are closed due to COVID-19?

Childcare is being offered by the County, free of charge, for those employees who are continuing to provide essential services to our community.

Can Supplemental Paid Sick Leave be used retroactively for COVID-19 related absences prior to March 29, 2021?

Yes, an employee may make a request in writing to use Supplemental Paid Sick Leave for COVID-19 related absences occurring on or between January 1, 2021 and April 4, 2021. The form to request retroactive use of Supplemental Paid Sick Leave can be found at the following link:

https://employeeservices.sccgov.org/sites/g/files/exjcpb531/files/Documents/2021-Retroactive-Supplemental-Paid-Sick-Leave-Request-Form_0.pdf

Effective Monday, March 29, 2021:

- Eligible employees who are absent from work for childcare purposes and cannot telecommute/work from home should:
 - Utilize Supplemental Paid Sick Leave allowance
 - Consider applying for Unemployment Insurance
 - Consider utilizing childcare services provided by the County

- Employees who are under COVID-19 related quarantine/self-quarantine, or who are experiencing symptoms or have received a positive test result and are not otherwise cleared to return to work, should:
 - Utilize Supplemental Paid Sick Leave allowance
 - Apply for FMLA/CFRA
 - Apply for State Disability Insurance (SDI)
 - Submit a Workers' Compensation claim if the illness is work related

- Employees may be required to provide appropriate documentation for use of SPSL, if there is other information indicating that the employee may not be taking the leave for a valid purpose. Employees who fail to provide appropriate medical documentation of COVID-19 reasons related to quarantine/self-quarantine/experiencing symptoms and/or positive test result, and are not otherwise cleared to return to work, or who do not provide documentation verifying school/childcare closure, may be required to use existing leave accruals to remain in paid status during any absences.

- Absences due to illness/injury unrelated to COVID-19 should be treated as normal requests for leave (sick leave accruals, FMLA, etc.).

- Requests for time off for personal reasons should be treated as normal requests for leave (vacation, comp-time, Personal Leave, PTO, etc.), subject to the operational needs of the Department.

Timekeeping Guidance

Timekeeping guidance will be provided at a future date once the new pay codes are activated in Kronos. Employees should continue to use available sick leave until the new pay codes are available and time adjustments can be submitted and processed for any eligible uses of SPSL.

Please contact Gina Donnelly, Deputy Director, Employee Services Agency at gina.donnely@esa.sccgov.org or (408) 209-7322 if you have any questions regarding this information.

2021 COVID-19 Supplemental Paid Sick Leave

Effective March 29, 2021

Covered Employees in the public or private sectors who work for employers with more than 25 employees are entitled to up to 80 hours of COVID-19 related sick leave from January 1, 2021 through September 30, 2021, immediately upon an oral or written request to their employer. If an employee took leave for the reasons below prior to March 29, 2021, the employee should make an oral or written request to the employer for payment.

A covered employee may take leave *if the employee is unable to work or telework for any of the following reasons:*

- Caring for Yourself: The employee is subject to quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the workplace, has been advised by a healthcare provider to quarantine, or is experiencing COVID-19 symptoms and seeking a medical diagnosis.
- Caring for a Family Member: The covered employee is caring for a family member who is subject to a COVID-19 quarantine or isolation period or has been advised by a healthcare provider to quarantine due to COVID-19, or is caring for a child whose school or place of care is closed or unavailable due to COVID-19 on the premises.
- Vaccine-Related: The covered employee is attending a vaccine appointment or cannot work or telework due to vaccine-related symptoms.

Paid Leave for Covered Employees

- 80 hours for those considered full-time employees. Full-time firefighters may be entitled to more than 80 hours, caps below apply.
 - For part-time employees with a regular weekly schedule, the number of hours the employee is normally scheduled to work over two weeks.
 - For part-time employees with variable schedules, 14 times the average number of hours worked per day over the past 6 months.
- Rate of Pay for COVID-19 Supplemental Paid Sick Leave: Non-exempt employees must be paid the highest of the following for each hour of leave:
 - Regular rate of pay for the workweek in which leave is taken
 - State minimum wage
 - Local minimum wage
 - Average hourly pay for preceding 90 days (not including overtime pay)
- Exempt employees must be paid the same rate of pay as wages calculated for other paid leave time.

Not to exceed \$511 per day and \$5,110 in total for 2021 COVID-19 Supplemental Paid Sick leave.

Retaliation or discrimination against a covered employee requesting or using COVID-19 supplemental paid sick leave is strictly prohibited. A covered employee who experiences such retaliation or discrimination can file a claim with the Labor Commissioner's Office. Locate the office by looking at the [list of offices on our website](http://www.dir.ca.gov/dlse/DistrictOffices.htm) (<http://www.dir.ca.gov/dlse/DistrictOffices.htm>) using the alphabetical listing of cities, locations, and communities or by calling 1-833-526-4636.

This poster must be displayed where employees can easily read it. If employees do not frequent a physical workplace, it may be disseminated to employees electronically.



Copyright © 2021 State of California, Department of Industrial Relations. Permission granted to display, perform, reproduce and distribute exclusively for nonprofit and educational purposes, and may not be used for any commercial purpose. All other rights reserved.