

# COUNTY OF SANTA CLARA

## Office of the Sheriff

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



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Laurie Smith  
Sheriff

## MEMORANDUM

**TO:** All Staff

**FROM:** COVID-19 Incident Command Center

**SUBJECT:** ICC Directive 21-07, (Supplemental Paid Sick Leave, Update)

**DATE:** April 30, 2021

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On 4-5-21, the ICC distributed Directive 21-06 (Supplemental Paid Sick Leave). That Directive contained COVID-19 guidance for Supplemental Paid Sick Leave. The guidance conformed to California Labor Code 248.2, which provided supplemental paid sick leave through September 30, 2021.

On 4-29-21, the County of Santa Clara published the Updated COVID-19 Guidance for Supplemental Paid Sick Leave (SPSL) because The California Division of Labor Standards (DLSE) had issued clarification regarding the use of SPSL for caring for a child. Please review the attached document. Page 3 of the document contains information regarding the update (see below). All supervisors and managers who are responsible for reviewing SPSL requests for eligibility and approval need to be aware of this update and are responsible for acting in accordance with this updated eligibility criteria.

*What does it mean for a child's school or place of care to be closed or unavailable due to COVID-19 on the premises?*

This means that a child's classroom in school or place of care has been closed after concern that **a person who had been present on the school or daycare premises on or after January 1, 2021, was exposed to, or had contracted, COVID-19.** This does not include caring for a child whose school or daycare was closed before January 1, 2021. If the school or daycare was closed on or after January 1, 2021, it must have been due to a closure, or partial closure, making the care unavailable due to COVID-19 on the premises.

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).

# County of Santa Clara

## Employee Services Agency

### Agency Administration

County Government Center, East Wing

70 West Hedding Street, 8<sup>th</sup> Floor

San Jose, California 95110-1705



DATE: April 29, 2021

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

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

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*John P. Mills*  
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**SUBJECT: UPDATED COVID-19 GUIDANCE FOR SUPPLEMENTAL PAID SICK LEAVE**

**The California Division of Labor Standards (DLSE) has issued clarification regarding the use of SPSL for caring for a child. Please see Page 3 of this memo for information regarding this update. All supervisors/managers responsible for reviewing SPSL requests for eligibility and approval need to be aware of this update and are responsible for acting in accordance with this updated eligibility criteria.**

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.

**Board of Supervisors:** Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian

**County Executive:** Jeffrey V. Smith

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.

***What does it mean for a child’s school or place of care to be closed or unavailable due to COVID-19 on the premises?***

This means that a child’s classroom in school or place of care has been closed after concern that **a person who had been present on the school or daycare premises on or after January 1, 2021, was exposed to, or had contracted, COVID-19.** This does not include caring for a child whose school or daycare was closed before January 1, 2021. If the school or daycare was closed on or after January 1, 2021, it must have been due to a closure, or partial closure, making the care unavailable due to COVID-19 on the premises.

***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-UPDATED-042921.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-SPSL-Request-Form-UPDATED-042921.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.

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