SUMMARY OF SUPPLEMENTAL PAID SICK LEAVE UNDER CALIFORNIA LABOR CODE 248.6

California Labor Code Section 248.6 (Code) provides for paid leave to assist employees impacted by COVID-19. The Code establishes two banks of leave: one is available for one of seven qualifying reasons discussed below and the second is available if the employee, or family member they are caring for, tests positive for COVID-19. This new paid leave provision became effective February 19, 2022 and expires on September 30, 2022.

Employee Eligibility:

Employees are eligible from the first day of employment.

Qualifying Reasons for Leave:

Employees may access this leave only when the employee has an assigned function/role that is capable of being performed, either onsite or at a remote location, but the employee is unable to perform the assigned duties due to certain, specific COVID-19 related reasons.

- Supplemental Paid Sick Leave (SPSL)
  
  An employee may access this bank of leave if they are unable to work, including telework, for any of the following qualifying reasons:
  
  1. Is subject to a quarantine or isolation period related to COVID-19, as defined by an order or guidance 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.
  2. Has been advised by a health care provider to isolate or self-quarantine due to COVID–19.
  3. Is attending an appointment for themselves or a family member, to receive a vaccine or vaccine booster for protection against COVID-19.
  4. Is experiencing, or caring for a family member experiencing, symptoms related to a COVID-19 vaccine or vaccine booster.
  6. Is caring for a family member who is subject to an order or guidance as described in (1) or who has been advised to isolate or self-quarantine as described in (2) above.
  7. 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.

- Supplemental Paid Sick Leave Based on Positive COVID-19 Test (SPSL-PT)
  
  An employee may access this bank of leave if they are unable to work, including telework, for either of the following qualifying reasons:
  
  1. The employee tests positive for COVID-19.
  2. The employee’s family member, for whom the employee is providing care, tests positive for COVID-19.

The district’s obligation to provide SPSL-PT is subject to the following:

- An employee is required to provide documentation of the employee’s initial positive test result; submit to a diagnostic test on or after the fifth day the employee initially tested positive, and provide documentation of the diagnostic test results. The district will make the diagnostic test available at no cost to the employee.
- If an employee requests SPSL-PT based on a family member’s positive test, they are required to provide documentation of the positive test results.
Summary of COVID-19 Supplemental Paid Sick Leave – Continued

Leave Entitlements/Maximum Entitlement:

Employees are eligible for one bank of hours for SPSL and a separate bank of hours for SPSL-PT. The maximum leave entitlement is a total of 40 hours of SPSL and 40 hours of SPSL-PT. An employee’s specific entitlement is determined by the employee’s full-time or part-time status as described below:

- Full-Time Employees:
  - Forty hours is available if the employee worked or was scheduled to work, on average, at least 40 hours per workweek in the two weeks preceding the date the employee took leave.
- Part-Time Employees:
  - An employee who is scheduled to work less than 40 hours per workweek is entitled to leave, up to the number of hours the employee is normally scheduled to work over a one-week period.
  - The leave entitlement calculation for employees who work a variable number of hours is dependent on length of employment.

How Leave May Be Taken:

- SPSL: If an employee is working onsite and requesting leave for reasons 1, 2, 5 or 6, leave must be taken in full-day increments (prorated for part-time employees). Once an employee begins taking leave for one or more of these qualifying reasons, they must continue to take leave each day until the employee either uses the full amount of SPSL or no longer has a qualifying reason for taking the leave. Intermittent leave must be agreed to by the employee and district and may only be taken if the employee is either (a) teleworking and requesting leave for any of the seven reasons or (b) working at their usual worksite and requesting leave under reason 7.
- SPSL-PT: If an employee is working onsite and requesting leave because they, or a family member they are caring for, tested positive for COVID-19, leave must be taken in full-day increments (prorated for part-time employees). Once an employee begins taking leave for either qualifying reason, they must continue to take leave each day until the employee either uses the full amount of SPSL-PT or no longer has a qualifying reason for taking the leave. Intermittent leave must be agreed to by the employee and district and may only be taken if the employee is teleworking.

Rate of Pay:

How much an employee will be paid while taking SPSL or SPSL-PT depends on the employee’s work schedule. Employees taking leave are entitled to their regular rate of pay, up to the maximum of $511 per day or $5,110 in the aggregate.

- For non-exempt employees, the rate is calculated by one of the following methods:
  - For employees that work a regular schedule, the rate will be the employee’s regular rate of pay for the workweek in which the employee used SPSL or SPSL-PT (not including overtime hours);
  - or
  - For employees who work at variable hours and/or variable rates, the rate is calculated by dividing the employee’s total wages by the employee’s total non-overtime hours worked in the full pay periods occurring within the prior 90 days of employment.
- For exempt employees, the rate is calculated in the same manner as the employer calculates wages for other forms of paid leave.
Interaction of SPSL/SPSL-PT with other District Provided Paid Leave:

Leave under SPSL and SPSL-PT is in addition to any district provided leave entitlements. The district cannot require that an employee use their available paid leave accruals before they use SPSL or SPSL-PT. Employees are not required to exhaust SPSL to qualify for SPSL-PT. The right to use SPSL-PT is based on the occurrence of a qualifying reason and subject to documentation of a positive COVID-19 test. The pay an employee receives under SPSL or SPSL-PT may be less than an employee’s regular pay because of the daily/maximum limit. Employees may choose to use other paid leave (i.e. district provided sick leave, personal leave, vacation), if available, in order to receive full compensation.

For any leave taken between January 1, 2022 and February 18, 2022, if employees were not compensated in an amount equal to or greater than the amount required by the Code for leave taken for one of the qualifying reasons covered under the Code, they may request retroactive payment that provides for such compensation. The number of hours of leave paid retroactively will be counted towards the total number of hours of an employee’s SPSL or SPSL-PT entitlement.

For any leave taken between January 1, 2022 and February 18, 2022, if employees were compensated in an amount equal to or greater than the amount required by the Code for leave taken for one of the qualifying reasons covered under the Code, they may request to be credited for any leave hours used. The number of leave hours credited will be counted towards the total number of hours of an employee’s SPSL or SPSL-PT entitlement.

If an employee is requesting retroactive payment for SPSL-PT, they will be required to provide documentation of a positive COVID-19 test during the relevant period, before the payment will be made.

Definition of Family Member:

Family member means any of the following:

- Child, including 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 is applicable regardless of age or dependency status.
- Parent, including a biological, adoptive or foster parent, stepparent, 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.
- Spouse.
- Registered domestic partner.
- Grandparent.
- Grandchild.
- Sibling.

Notice of Leave Request:

When leave is not foreseeable, requests should be made as soon as practicable and in advance of the leave, if possible. If the need for leave is foreseeable, requests should be made five (5) business days in advance of the need for leave or within two (2) business days after learning of the need for leave.

Employees requesting to access leave should complete the applicable leave request forms, which are available as fillable PDF documents, on the district’s website at: COVID-19 Related Leave Information.

Documentation Requirements:

Documentation to support an employee’s qualifying reason for leave is dependent on the reason for the requested leave.