

California COVID-19 Paid Sick Leave Laws (as of May 22, 2020)

	Los Angeles City Supplemental Paid Sick Leave Due to COVID-19	Unincorporated Los Angeles County Supplemental Paid Sick Leave Due to COVID-19	San Francisco Public Health Emergency Leave	San Jose COVID-19 Paid Sick Leave Ordinance	Oakland Emergency Paid Sick Leave Ordinance
Overview	<p>Employee who works 40+ hours/week or is classified as full-time receives 80 hours of supplemental paid sick leave.</p> <p>Employee who works less than 40 hours/week and is not classified as full-time shall receive supplemental paid sick leave in an amount no greater than the employee's average two-week pay over the period of February 3, 2020, through March 4, 2020.</p> <p>Effective April 7, 2020, and in effect until two calendar weeks after expiration of the COVID-19 local emergency period.</p>	<p>Employees who work at least 40 hours per week or are classified by their employers as full-time are entitled to 80 hours of supplemental paid sick leave, in an amount no greater than an employee's highest average two-week pay between January 1, 2020, and April 28, 2020.</p> <p>Employees who work less than 40 hours per week and are not classified as full-time by their employers are also entitled to supplemental paid leave, in an amount no greater than the employee's average two-week pay between January 1, 2020, and April 28, 2020</p> <p>Effective April 28, 2020, until December 31, 2020 (unless the Board extends its applicability).</p>	<p>Provides up to 80 hours of supplemental paid leave for COVID-19-related reasons for employees who work within the City and County of San Francisco.</p> <p>Effective April 17, 2020. Expires on the 61st day following enactment unless reenacted, or upon the termination of the Public Health Emergency, whichever occurs first.</p>	<p>Provides up to 80 hours of paid sick leave for employees who leave their residence to perform Essential Work under the Shelter in Place Order.</p> <p>Effective from April 7, 2020, through December 31, 2020.</p>	<p>Provides up to 80 hours of supplemental paid leave for COVID-19-related reasons for employees who work within the City of Oakland.</p> <p>Effective from May 12, 2020, through December 31, 2020.</p>
Interaction of Laws	<p>Employer must comply with all federal, state, or local laws and regulations related to sick leave.</p> <p>The supplemental paid sick leave is a separate category of leave, in addition to California/Los Angeles-mandated paid sick leave.</p>	<p>Employer must comply with all federal, state, or local laws and regulations related to sick leave.</p> <p>The supplemental paid sick leave is a separate category of leave, in addition to other paid and unpaid leaves, time-off, and vacation the employer provides them before using or in lieu of using paid sick leave.</p>	<p>An employer must comply with any and all federal, state, or local laws and regulations related to sick leave.</p> <p>SF PHELO is a separate category of leave, in addition to California/San Francisco-mandated paid sick leave.</p>	<p>An employer must also comply with any and all federal, state, or local laws and regulations related to sick leave.</p>	<p>An employer must also comply with any and all federal, state, or local laws and regulations related to sick leave.</p> <p>Federal guidance shall not be used to interpret the Oakland ordinance</p>
Covered Employers	<p>Employer that has either:</p> <ul style="list-style-type: none"> • 500+ employees within City of Los Angeles; or • 2,000+ employees within United States. <p>Size of an employer's business = average number of employees employed during the previous calendar year.</p>	<p>Private employers with 500 or more employees in the United States. The ordinance is silent concerning when and how an employer calculates its size.</p> <p>Federal, state, and local government agencies are not considered employers under the Ordinance.</p>	<p>Private employers who have 500 or more employees worldwide.</p>	<p>Applies to all businesses that:</p> <ol style="list-style-type: none"> 1. Maintain a facility within the boundaries of the City, or are subject to the Business License Tax required by Chapter 4.76 of the San Jose Municipal Code; and 	<p>All private employers, except:</p> <ul style="list-style-type: none"> • Employers with fewer than 50 employees between February 3, 2020, and March 4, 2020 (unregistered janitorial employers and certain franchisees are subject to the ordinance regardless of their size).
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	<p>Number of employees = full-time, part-time, temporary, or seasonal employees, and workers supplied through a temporary employment agency.</p> <p>Six categories of exempted employers:</p> <ol style="list-style-type: none"> 1. Emergency and health services personnel. 2. Critical parcel delivery. 3. Employers with generous leave policies – If PTO policy provides a minimum of 160 hours of paid leave annually. 4. New businesses – If business (a) started in the City or relocated from outside City on or after September 4, 2019, through March 4, 2020; and (b) was not in business in the City in the 2018 tax year. 5. Government agencies. 6. Closed businesses – Closed or not operating for a period of 14 or more consecutive days – any time on or after March 4, 2020 – due to a city official's emergency COVID-19 order, or have already provided at least 14 days of paid or unpaid leave – including furlough days. <p style="color: red;">(continued)</p>			<p>2. "[T]hat are not required – in whole or in part – to provide paid sick leave benefits under the federal Emergency Paid Sick Leave Act" in the FFCRA.</p> <p>Employers that had provided employees on the date of enactment with some combination of paid personal time off (vacation, sick leave, PTO) "at least equivalent" to the provisions of the ordinance are exempt from the ordinance.</p>	<ul style="list-style-type: none"> • Employers of healthcare providers or emergency responders, as defined in the Federal Emergency Paid Sick Leave Act (passed as part of FFCRA), who elect exemption from the ordinance, provided that they comply with the federal regulations and retain information regarding the details of the exemption for three years, including classifications and locations exempted. • Employers with clear and unambiguous collective bargaining agreement language waiving obligations under the ordinance.

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	If collective bargaining agreement (CBA) is in place as of April 7, 2020, that does not address sick leave related to COVID-19, employer must comply with Order until the CBA is amended to expressly waive the terms. For period not covered by the CBA, employer must comply with Order. Any employer who fails to comply will be required to make retroactive corrections.				
Eligible Employees	<p>Employees employed with the same employer from February 3, 2020, through March 4, 2020, unable to work or telework and perform any work within the geographic boundaries of the City for an employer.</p> <p>If employee worked in multiple locations, should be counted as an employee within the City of Los Angeles if they performed any work within the City's geographic boundaries in the previous calendar year.</p> <p>For a telecommuting employee, the Order applies to employees who either:</p> <ol style="list-style-type: none"> 1. Normally work for companies at locations inside the City of Los Angeles and are telecommuting from homes inside the City; 2. Normally work for companies at locations outside the City but are telecommuting from homes inside the City; or 3. Normally work for companies at locations inside the City but are telecommuting from homes outside the City. 	<p>Any individual who performs any work within the geographic boundaries of the unincorporated areas of the County of Los Angeles for an employer. The ordinance specifies that a worker is presumed to be an employee.</p> <ul style="list-style-type: none"> • The ordinance does not apply to a food sector workers covered by California Governor's Executive Order N-51-20. • Additionally, an employer may exclude employees who are emergency responders or healthcare providers, i.e.: <u>Emergency Responder:</u> An employee who provides emergency response services. This category includes but is not limited to: <ol style="list-style-type: none"> 1. Peace officers; 2. Firefighters; 3. Paramedics; 4. Emergency medical technicians; 	<p>All employees who perform work as an employee within the City and County of San Francisco, including part-time, temporary, and seasonal workers.</p> <p>Employees who worked from a San Francisco location prior to February 25, 2020, are entitled to this leave even if they now telework from a location outside of the city.</p> <p>Employees who worked outside of San Francisco prior to February 25, 2020, but subsequently switched to telework in San Francisco, are not eligible for this leave.</p>	<p>All employees who have worked at least two hours within the City and who leave their residence to perform Essential Work, as defined by the Santa Clara County Public Health Officer on March 16, 2020.</p>	<p>Employees who have worked at least two hours after February 3, 2020, in the City of Oakland (including the Port of Oakland); or</p> <p>Recipients of public benefits who have worked at least two hours after February 3, 2020, in the City of Oakland (including the Port of Oakland) as a condition of receiving those benefits.</p>
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		<p>5. Public safety dispatchers or safety telecommunicators;</p> <p>6. Emergency response communication employees;</p> <p>7. Rescue service personnel; and</p> <p>8. Employees included in the definition of emergency responder in the regulations issued by the U.S. Department of Labor.</p> <p><u>Healthcare Provider</u>: The category of healthcare providers includes but is not limited to:</p> <p>1. Medical professionals;</p> <p>2. Employees who are needed to keep hospitals and similar healthcare facilities well-supplied and operational;</p> <p>3. Employees who are involved in research, development, and production of equipment, drugs, vaccines, and other items needed to combat the COVID-19 public health emergency; and</p> <p>4. Employees included in the definition of healthcare provider in the regulations issued by the U.S. Department of Labor.</p>			
Qualifying Reasons	<p>Employer shall provide supplemental paid sick leave upon oral or written request of employee if:</p> <ul style="list-style-type: none"> • Due to COVID-19 infection or because public health official or healthcare provider requires or recommends employee isolate or self-quarantine; 	<p>Employer shall provide supplemental paid sick leave upon the written request (including but not limited to email or text) of an employee if the employee cannot work or telework because:</p>	<p>Employees can use accrued sick leave in the following situations:</p> <ul style="list-style-type: none"> • Public health officials or healthcare providers require or recommend an employee isolate or quarantine; 	<p>Employees can use emergency paid sick leave for the following reasons:</p> <ul style="list-style-type: none"> • Employee is subject to quarantine or isolation by federal, state, or local order due to COVID-19, or is caring for someone who is quarantined or isolated due to COVID-19; 	<p>Employees are entitled to use emergency paid sick leave if they are unable to work (or telework) because:</p> <ul style="list-style-type: none"> • Employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
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	<ul style="list-style-type: none"> Employee is at least 65 years old or has health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system; Employee needs to care for family member who is not sick but whom public health officials or healthcare providers have required or recommended isolation or self-quarantine; or Employee takes time off work because employee needs to provide care for family member whose senior care provider or school or childcare provider caring for a child under age 18 temporarily ceases operations in response to health or other public official's recommendation. Only applicable to Employees unable to secure reasonable alternative caregivers. 	<ul style="list-style-type: none"> A public health official or healthcare provider requires or recommends the employee isolate or self-quarantine to prevent the spread of COVID-19; The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19 (The ordinance provides an example of someone who is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or a weakened immune system); The employee needs to care for a family member (defined as the employee's child, parent, or spouse) who is subject to a federal, state, or local quarantine order related to COVID-19 or has been advised by a healthcare provider to self-quarantine related to COVID-19; or The employee takes time off work because the employee needs to provide care for a family member whose school or childcare provider ceases operations in response to a public health or other public official's recommendation. 	<ul style="list-style-type: none"> Employee falls within the definition of a "vulnerable population" under the San Francisco Department of Public Health's (DPH) March 6, 2020, guidelines or any subsequent updates; Employee's business or work location temporarily ceases operations in response to a public health or other public official's recommendation—subject to the "Eligibility for Paid Sick Leave" guidelines above; Is caring for a family member if their school or care provider is closed or unavailable due to COVID-19; or Is experiencing any other substantially similar conditions specified by the Local Health Officer. <p>Employers of healthcare providers or emergency responders may limit those employees' use of time to the following circumstances:</p> <ul style="list-style-type: none"> The employee is advised by a healthcare provider to self-quarantine; or The employee is experiencing COVID-19 symptoms, is seeking a diagnosis, and does not meet CDC return-to-work guidance. 	<ul style="list-style-type: none"> Employee is advised by a healthcare provider to self-quarantine due to COVID-19 or is caring for someone who is so advised by a healthcare provider; Employee experiences symptoms of COVID-19 and is seeking medical diagnosis; and/or Employee is caring for a minor child because a school or daycare is closed due to COVID-19. 	<ul style="list-style-type: none"> Employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19; Employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis; Employee is caring for an individual who has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19; Employee is caring for a son or daughter if the school or place of care has closed or is unavailable due to COVID-19 precautions; Employee is experiencing any other substantially similar condition specified by the federal Secretary of Health and Human Services in consultation with the Secretary of Labor and Secretary of the Treasury; Employee is caring for a family member who has been diagnosed with COVID-19 or is experiencing symptoms of COVID-19. or The employee chooses to take time off because the employee: <ul style="list-style-type: none"> Is at least 65 years old; Has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system; <p>(continued)</p>

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					<ul style="list-style-type: none"> ○ Has any condition identified by a public health official as putting the public at heightened risk of serious illness or death if exposed to COVID-19; or ○ Has any condition certified by a healthcare professional as putting the employee at a heightened risk of serious illness or death if exposed to COVID-19.
Duration of Leave	<p>Full-time employees: 80 hours.</p> <p>Part-time employees: Amount no greater than employee's average two-week pay over the period of February 3, 2020, to March 4, 2020. Maximum of 80 hours.</p> <p>Employees of joint employers are not entitled to double dip in amount of paid sick leave they receive.</p>	<p>Full-time employees: 80 hours.</p> <p>Part-time employees: Amount no greater than the employee's average two-week pay over the period of January 1, 2020, through April 28, 2020.</p> <p>Employees of joint employers are only entitled to the total aggregate amount of leave specified for Employees of one Employer.</p>	<p>Full-time employees: 80 hours.</p> <p>Part-time employees: The number of hours normally worked in a two-week period, based on a six-month average.</p>	<p>Full-time employees: 80 hours.</p> <p>Part-time employees: The number of hours normally worked in a two-week period, based on a six-month average.</p>	<p>Full-time employees: 80 hours to all employees who worked at least 40 hours per week over the period of February 3, 2020, through March 4, 2020, within the City of Oakland.</p> <p>Part-time employees: Worked less than 40 hours per week over the period of February 3, 2020, through March 4, 2020, are entitled to the average number of hours the employee worked within the City of Oakland over 14 days, and the calculation must be the 14 days with the highest number of hours worked.</p>
Advance Notice Requirement	<p>Not addressed in Order.</p> <p>Generally, employee should provide notice as soon as practicable.</p>	<p>Not addressed in Ordinance.</p> <p>Generally, employee should provide notice as soon as practicable.</p>	<p>Employer may require reasonable notice when need for leave is foreseeable.</p>	<p>Not addressed in ordinance.</p>	<p>If foreseeable, employees "should" provide notice as soon as practicable.</p>
Documentation Requirement	<p>No.</p> <p>No doctor's note or other documentation can be required. But employers can and should document reasons for leave.</p>	<p>Yes.</p> <p>An employer may require documentation "as allowed pursuant to the Families First Coronavirus Response Act . . . and the related Federal Department of Labor Rules and Regulations."</p>	<p>No.</p> <p>No doctor's note or other documentation can be required.</p>	<p>Not addressed in ordinance.</p>	<p>No, with one exception:</p>
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		However, an employee may begin using the supplemental paid sick leave prior to obtaining any such documentation.			<p>A doctor's note can only be required if employee claims to use leave on the basis of a "condition certified by a healthcare professional as putting the employee at a heightened risk of serious illness or death if exposed to COVID-19." The documentation does not need to disclose the employee's condition, only that they are at a heightened risk for serious illness or death if exposed to COVID-19.</p> <p>The ordinance permits certification of need for leave utilizing virtual or telephonic appointments with the healthcare provider.</p> <p>Employers may take reasonable measures to verify use of emergency paid sick leave, not to exceed \$5 cost to employees.</p>
Accrual	Not applicable.	Not applicable.	Not applicable.	Not applicable.	Not applicable.
Carryover	Not applicable.	Not applicable.	Not applicable.	No.	Not applicable.
Intermittent Use Allowed?	Yes.	Not addressed in Ordinance.	Yes. Employers cannot require that PSL be used in increments larger than one hour.	Not addressed in ordinance.	Intermittent use in one-hour increments is allowed.
Rate of Pay	<p>If employee works 40+ hours/week or is classified as full-time by the employer = employee's average two-week pay between February 3, 2020, and March 4, 2020.</p> <p>If employee works less than 40 hours/week and is not classified as full-time = employee's average two-week pay between February 3, 2020, and March 4, 2020.</p>	Employees who work at least 40 hours per week or are classified by their employers as full-time are entitled to 80 hours of supplemental paid sick leave, in an amount no greater than an employee's highest average two-week pay between January 1, 2020, and April 28, 2020.	<p><u>Non-exempt employees:</u></p> <ul style="list-style-type: none"> Regular rate of pay for the workweek in which the employee uses the leave. <p><u>Exempt employees:</u></p> <ul style="list-style-type: none"> The same way the employer calculates wages for other forms of paid leave. 	<p>The employee's regular rate of pay, up to \$511 a day and not to exceed \$5,110.</p> <p>If the employee is caring for another person, the employee is only entitled to two-thirds of their regular rate of pay, up to \$200 a day and not to exceed \$2,000.</p>	<p>The greater of:</p> <ul style="list-style-type: none"> The same "hourly rate and with same benefits, including health benefits" as employee normally earns during hours worked; or The hourly amount provided under Oakland's non-emergency paid sick leave ordinance.
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	Amount of hours that must be provided is determined by adding number of hours worked in four consecutive weeks during this period and dividing total by 2. Supplemental paid sick leave is capped at \$511/day or \$5,110 total.	Employees who work less than 40 hours per week and are not classified as full-time by their employers are also entitled to supplemental paid leave, in an amount no greater than the employee's average two-week pay between January 1, 2020, and April 28, 2020. Supplemental paid sick leave is capped at \$511 per day and \$5,110 total.			<ul style="list-style-type: none"> • Payments shall not exceed \$511 per day or \$5,110 in the aggregate.
Cash-Out of Paid Leave Required?	No. Employers not required to pay out unused paid sick leave to employees at termination, resignation, retirement, or other separation from employment.	No. Employers not required to pay out unused paid sick leave to employees at termination, resignation, retirement, or other separation from employment.	No. Upon the employee's separation from employment, the employer does not have to provide or pay out unused SF PHELO.	No. Unused emergency leave is not paid out on termination.	No. , payout of unused <u>emergency</u> paid sick leave is not required upon separation. However, the emergency paid sick leave ordinance imposes a temporary obligation that laid-off employees must be paid their unused <u>non-emergency</u> paid sick leave (that is, time accrued under Oakland's pre-existing paid sick leave ordinance).
Interaction With Paid-Time-Off Policies (Vacation, Sick, and Personal)	Supplemental paid sick leave is separate and apart from any regular paid sick leave provided by the employer. Employer's obligation to provide 80 hours of supplemental paid sick is reduced for every hour an employer allowed employee to take paid leave that was compensated at the amount required by this Order, not including previously accrued hours, on or after March 4, 2020, for any of the four qualifying reasons described above, or in response to an Employee's inability to work due to COVID-19.	Supplemental paid sick leave is in addition to any paid sick leave that may be available to the employee under Labor Code Section 246. The ordinance provides that employers cannot require employees to use other paid or unpaid leave, paid time off, or vacation time an employer provides them before using, or in lieu of using, supplemental paid sick leave.	Employers cannot require employees to use other accrued paid time off before they can use this emergency leave. Employees may voluntarily choose to use other accrued paid leave before using this emergency leave.	No additional benefits are required if, on the date of the ordinance's enactment, employees were provided with paid personal time off at least equivalent to the requirements of the ordinance.	Employers cannot require employees to use other accrued paid time off before they can use this emergency leave. Leave granted under FFCRA can be credited against an employer's obligations under the Oakland ordinance. Employers that after February 3, 2020, provide to employees the ability to accrue at least 160 hours of paid personal leave are not required to provide additional leave under this ordinance, provided that each such employee had immediate access on May 12, 2020, to at least 80 hours of leave available for the covered purposes.
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					Employers that after February 3, 2020, provided immediate access to paid personal leave for reasons related to COVID-19 in addition to any leave required by a CBA, employment contract, or public policy, and in amounts at least equivalent to the ordinance, are not required to provide additional leave under this ordinance.
Job Restoration	Yes (same or equivalent job at end of leave).	Yes. Although not expressly addressed in the Ordinance, the Ordinance's non-retaliation provision appears to require job restoration following an employee's return from leave.	Yes. Although not expressly addressed in the Order, the Order's non-retaliation provision appears to require job restoration following an employee's return from leave under this Order.	Unknown. Ordinance does not specify. However, the City is likely to require that an employee be restored to their same or similar position at the end of their leave.	Unknown. Ordinance does not specify. However, the City is likely to require that an employee be restored to their same or similar position at the end of their leave.
Employer Posting/ Notice Obligation	Not addressed in Order.	Not addressed in Ordinance.	Yes. The City will provide a notice to be posted, sent electronically, and/or posted on the intranet or app. This leave must also be reflected on sick leave notices required under Cal Labor Code 246(i).	Not addressed in ordinance. However, it authorizes the San Jose Office of Equality Assurance to implement and enforce the ordinance, which may require employers to post notices.	Yes. The City will provide a notice to be posted and, within three days, employers must provide notice in a manner calculated to reach all employees, including sending by email or posting in the workplace or in a "conspicuous" place in an employer's web-based or app-based platform. The notice must be provided in all languages spoken by more than 10 percent of employees.
Retaliation Prohibited	Yes.	Yes.	Yes.	Not addressed in Ordinance.	Yes.
Records Retention	Yes. <ul style="list-style-type: none"> Name of the employee requesting the leave; Date for which the leave is requested; Category or reason for the leave; and 	Not addressed in Ordinance.	Yes. Four years (must retain for four years showing hours worked and emergency leave taken).	Yes. The name of employee requesting leave; the date(s) for which leave is requested; the reason for leave; and a statement from the employee that he or she is unable to work because of the reason.	Not addressed in Ordinance, but Oakland will provide later guidance.
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	<ul style="list-style-type: none"> Whether the leave request was approved and, if not, the reason for denial. 				
Enforcement	<p>Damages available include:</p> <ol style="list-style-type: none"> Reinstatement. Back pay and supplemental paid sick leave unlawfully withheld, calculated at the employee's average rate of pay. Other legal or equitable relief. Attorneys' fees and costs to prevailing employee. 	<p>Damages available include:</p> <ol style="list-style-type: none"> Reinstatement. Back pay and supplemental paid sick leave unlawfully withheld, calculated at the employee's average rate of pay. Other legal or equitable relief. Attorneys' fees and costs to prevailing employee. 	Not addressed in ordinance.	<p>Not addressed in ordinance.</p> <p>Generally, employees can bring actions against employers if they are retaliated against for taking protected leave. Damages include:</p> <ol style="list-style-type: none"> Reinstatement, if they were terminated. Back pay and supplemental paid sick leave that was unlawfully withheld (calculated at the employee's average rate of pay); or Other legal or equitable relief. 	Not addressed in ordinance.

Other California cities have local paid sick leave ordinances that may also apply to employees affected by COVID-19. The California Labor Code Section 246 and several California cities with existing paid sick leave ordinances (i.e., Emeryville and San Diego) have clarified that such leave may also be available for employees for reasons related to the COVID-19 public health emergency. California employers should check local paid sick leave ordinances for applicability to their employees.