

San José State University Research Foundation

City of San José COVID-19 Paid Sick Leave Policy

San Jose City Council passed the San José Paid Sick Leave Ordinance on April 7, 2020, in response to the COVID-19 health crisis. The Ordinance required employers not covered by the federal Emergency Paid Sick Leave Act to provide paid sick leave to be used for specified COVID-19 related reasons. It expired on December 31, 2020.

The City Council extended and revised the Ordinance on January 5, 2021, with an effective date retro-active to January 1, 2021. The extended and revised Ordinance is intended to continue the benefits under the original ordinance and the federal Emergency Paid Sick Leave Act, which expired on December 31, 2020.

Covered Employees: This Ordinance requires employers to provide the required paid sick leave benefit only to those employees meeting both of the following requirements:

- The employee has worked for the employer for at least two (2) hours within the geographic boundaries of the City of San José.
- The employee leaves their own residence to perform work for the employer and is unable to telecommute.

Nothing in this Ordinance is intended to require the provision of sick leave to employees who can work from home. The Ordinance does not apply to any employer that provides its employees, on the effective date of this Ordinance, with some combination of paid personal leave at least equivalent to the paid sick time required by this Ordinance. An Employer that provides some combination of paid personal leave less than the paid sick time required by this Ordinance is required to comply with this Ordinance to the extent of such deficiency.

Benefited employees of the Research Foundation are not eligible for this paid sick leave as they are provided with sick and vacation hours. Non-benefited employees are provided 24 hours of sick leave at the beginning of each calendar year. Eligible non-benefited employees will receive additional sick hours based on the difference between the 24 hours of sick (already assigned) and average hours worked by the employee over two weeks. These hours cannot be carried over after this leave expires.

Qualifying reasons: An employee may take Paid Sick Leave if the employee is unable to work for any of the following reasons:

- Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID19;
- Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis; or

- Employee is caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

An employee can take paid sick leave for one or more of the above qualifying reasons until the employee either (1) uses the full amount of paid sick leave or (2) no longer has a qualifying reason for taking paid sick leave.

Paid Leave Entitlement: Employees are entitled to the following amounts of hours of COVID-19 Paid Sick Leave:

- **Full Time Employees:** An employee is entitled to a maximum of 80 hours of paid sick leave if the employee was scheduled to work, on average, at least 40 hours per week.
- **Part Time Employees with Varied Schedules:** A part time employee is entitled to paid sick leave equivalent to the average number of hours worked over a two-week period.
- If an eligible employee has worked for less than 6 months, then the average hours the employer expected at the time of hire will be used.

Rate of Pay for COVID-19 Supplemental Paid Sick Leave: Employee will be paid regular rate of pay up to \$511 per day and not to exceed an aggregate of \$5,110.

Procedure: Employee contacts the manager and HR to request the leave. If all the requirements are met, the leave will be approved. **Employee will be notified of the paid sick leave hours available to use at that time.** Employee must provide the reason for leave and a statement that he or she is unable to work because of the reason. Retaliation or discrimination against an employee requesting or using COVID-19 paid sick leave is strictly prohibited.

An employee can file a wage claim with the Office of Equality Assurance either by calling 1 (408) 535-8430 or via email Mywage@sanjoseca.gov.

The obligation to provide COVID-19 paid sick leave expires on June 30, 2021.