

San Jose State University Research Foundation

CA COVID-19 Supplemental Paid Sick Leave

On March 19, 2021, the Governor signed SB 95, bringing back the state's COVID-19 Supplemental Paid Sick Leave. SB 95 provides up to 80 hours of leave and employers must start providing this new leave on March 29, 2021. Covered employees are entitled to COVID-19 related sick leave from January 1, 2021 through September 30, 2021.

Covered Employees: Employees are covered if they meet the following criteria:

- They work for an employer with more than 25 employees
- Who cannot work or telework due to the reason listed below under Qualifying Reasons.

Qualifying reasons: An employee may take COVID-19 Supplemental Paid Sick Leave (CSL) if the employee is unable to work for any of the following reasons:

- 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.
- Advised by a health care provider to self-quarantine.
- Attending an appointment to receive a COVID-19 vaccine.
- Experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework.
- Experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- Caring for a family member who is subject to an order or guidelines, or who has been advised to self-quarantine.
- Caring for a child whose school or place of care is closed for COVID-19 reasons.

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

- **Full Time Employees:** An employee is entitled to 80 hours of CSL if an employee is full time, or the employee was scheduled to work, on average, at least 40 hours per week for the employer in the two weeks preceding the date the employee took leave.
- **Part Time Employees:** Part-time employees are eligible for an amount of leave equal to the number of hours they're normally scheduled to work in two weeks. If an employee works a varying schedule, they're entitled to hours equal to 14 times the average number of hours the employee worked each day in the prior six months, or over the total time of employment if less than six months.
- **Part Time Employees who worked for a period of 14 days or fewer:** A covered employee who is newly hired (i.e., hired 14 days or less) and works

variable hours will be entitled to the number of 2021 COVID-19 Supplemental Paid Sick Leave hours that they have worked in the preceding two weeks.

Rate of Pay for COVID-19 Supplemental Paid Sick Leave:

- Non-exempt employee will be paid highest of
 - regular rate of pay for the workweek in which the leave is taken,
 - State minimum wage, or
 - local minimum wage.
- Exempt employees must be paid in the same manner as the employer calculates wages for other forms of paid leave time.
- Not to exceed \$511 per day and \$5,110 in aggregate to a covered employee for 2021 CSL taken by the covered employee. Employees may utilize other paid leave that may be available in order to receive what they would normally earn if the cap is reached.

Effective Dates and Retroactivity: The bill states that the law applies retroactively to January 1, 2021 in order to protect the economic well-being of covered employees who took leave after the expiration of the AB 1867. As such, the Research Foundation will make retroactive payments for leave taken for any of the qualifying reasons between January 1, 2021, and March 28, 2021, upon oral or written request of the employee.

The employee must initiate the retroactive payment by submitting an oral or written request. The payment will be paid on or before the payday for the next full pay period after the oral or written request by the employee and will be reflected on paystub. Any such retroactive payment will count towards the total number of COVID-19 supplemental paid sick leave required by this law.

Procedure: Employee makes a written or oral request to the manager and HR at foundation-hr@sjsu.edu. If the leave is requested for a qualifying reason, the leave will be approved. Employee, who are considered variable part-time employees, will be notified of the CSL hours available to use at that time.

Retaliation or discrimination against an employee requesting or using COVID-19 supplemental paid sick leave is strictly prohibited. An employee who experiences such retaliation or discrimination can file a claim with the Labor Commissioner's Office.

The new California COVID-19 supplemental paid sick leave expires on September 30, 2021.