

## San Jose State University Research Foundation

### CA COVID-19 Supplemental Paid Sick Leave

On September 9, 2020, Governor Newsom signed into law AB 1867, establishing supplemental COVID-19 leave obligations for certain large employers as well as employers of health care, public safety and food service workers in California. Employers with 500 or more employees nationwide, and a public or private entity that employs health care providers or emergency responders who excluded such employees from emergency paid sick leave under the federal Families First Coronavirus Response Act (FFCRA) are required to provide supplemental paid sick leave to employees for specified reasons related to COVID-19 by September 19, 2020. (See Labor Code section 248.1).

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

- The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
- The employee is advised by a healthcare provider to self-quarantine or self-isolate due to COVID-19 related concerns.
- The employee is prohibited from working by the employer due to health concerns related to the potential transmission of COVID-19.

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

- They work for the following type of employer:
  - An employer with 500 or more employees nationwide OR
  - An entity that employs health care providers or emergency responders and has elected to exclude such employees from emergency paid sick leave under the federal Families First Coronavirus Response Act; AND
- They leave home to perform work.

**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 CPSL 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 with Fixed Schedules:** Employees who are not considered “full time,” and work normal or fixed weekly schedules will receive an amount of CPSL equal to the total number of hours they are normally scheduled to work for the employer over two weeks.
- **Part Time Employees with Varied Schedules:** Employees who work irregular or a variable number of hours receive 14 times the average number of hours they worked each day for the employer in the six months preceding the date they took

leave. If the employee has worked for the employer for less than six months, the total length of their employment is used, unless the employee has been employed for 14 days or less. In that case, the total number of hours worked is used.

**Rate of Pay for COVID-19 Supplemental Paid Sick Leave:** Employee will be paid:

- Highest of
  - regular rate of pay for last pay period,
  - State minimum wage, or
  - local minimum wage
  
- Not to exceed \$511 per day and \$5,110 in total

**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 CSPSL 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 obligation to provide COVID-19 supplemental paid sick leave expires on the later of December 31, 2020 or the expiration of any federal extension of the Emergency Paid Sick Leave Act established by the Families First Coronavirus Response Act (FFCRA).