

County of Santa Clara

Employee Services Agency

Agency Administration

County Government Center, East Wing

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San Jose, California 95110-1705



DATE: October 7, 2022

TO: Agency/Department Heads
Executive Leadership Group
Departmental Human Resources Liaisons
Departmental Timekeepers

FROM: John P. Mills, Director, Employee Services Agency

SUBJECT: UPDATED COVID-19 GUIDANCE FOR SUPPLEMENTAL PAID SICK LEAVE (SPSL)

The 2022 SPSL provided under California Labor Code §248.6 has been extended through December 31, 2022. Please see Page 4 of this memo for additional information regarding COVID-19 testing and documentation requirements.

The following guidance supersedes previous guidance regarding employee timekeeping and optional benefits for eligible employees. This guidance addresses California Labor Code §248.6, which provides for Supplemental Paid Sick Leave, **effective January 1, 2022 through December 31, 2022.**

Supplemental Paid Sick Leave

In conformance with the recently amended California Labor Code §248.6, the County will provide eligible employees with 40 hours of Supplemental Paid Sick Leave. The maximum compensation provided for Supplemental Paid Sick Leave is \$511.00 per day and \$5,110 in the aggregate. Part-time and Extra Help employees should not be permitted to use more Supplemental Paid Sick Leave hours than their normally scheduled hours during any pay period. For example, a twenty-hour part-time employee (0.5 code) should not receive more than 20 of their allotted hours each workweek. The SPSL request form can be found at the following link: https://employeeservices.sccgov.org/sites/g/files/exjcpb531/files/documents/2022_SPSL_Request_Form_021822.pdf

Employees are eligible for up to an additional 40 hours if the employee, or a family member for whom the employee is providing care, tests positive for COVID-19, subject to the employee providing documentation of their own positive test result on the fifth day of their COVID-19 illness, or a positive test result for a family member, before receiving the additional Supplemental Paid Sick Leave. The SPSL request form can be found at the following link: https://employeeservices.sccgov.org/sites/g/files/exjcpb531/files/documents/2022_SPSL_Request_Form_Excess_40%20hours_for_COVID%2B_021822.pdf

Board of Supervisors: Mike Wasserman, Cindy Chavez, Otto Lee, Susan Ellenberg, S. Joseph Simitian

County Executive: Jeffrey V. Smith

The total maximum amount of Supplemental Paid Sick Leave an employee may receive shall not exceed 80 hours (40 hours for a qualifying reason + up to an additional 40 hours if the employee or a family member for whom the employee is providing care tests positive, and the employee provides documented proof of the positive test results) for the period between January 1, 2022 and December 31, 2022.

If not used for a qualifying purpose, all Supplemental Paid Sick Leave will expire on December 31, 2022. These hours are not subject to sick leave payout provisions as part of any labor agreements or County Ordinance Code.

Frequently Asked Questions

When is an employee entitled to use Supplemental Paid Sick Leave?

County employees are eligible for Supplemental Paid Sick Leave (SPSL) for the following reasons, in accordance with California Labor Code §248.6, which states:

- A. The covered employee is 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. If the covered employee is subject to more than one of the foregoing, the covered employee shall be permitted to use COVID-19 supplemental paid sick leave for the minimum quarantine or isolation period under the order or guidelines that provides for the longest such minimum period.
- B. The covered employee has been advised by a healthcare provider to isolate or quarantine due to COVID-19.
- C. The covered employee is attending an appointment for themselves or a family member to receive a vaccine or a vaccine booster for protection against COVID-19, subject to the limitations in section (D), subsection (a), below.
- D. The covered employee is experiencing symptoms, or caring for a family member experiencing symptoms, related to a COVID-19 vaccine or vaccine booster that prevent the employee from being able to work or telework.
 - a. For each vaccination or vaccine booster, COVID-19 supplemental paid sick leave is limited to 3 days or 24 hours, unless the employee provides verification from a healthcare provider that the covered employee or their family member is continuing to experience symptoms related to a COVID-19 vaccine or vaccine booster. The 3-day or 24-hour limitation applied to each vaccine or vaccine booster includes the time used under section C to get the vaccine or vaccine booster.
- E. The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

- F. The covered employee is caring for a family member who is subject to an order or guidelines described in section (A) above, or who has been advised to isolate or quarantine as described in section (B) above. A “family member” is defined as:
1. A child (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 applies regardless of age or dependency status.).
 2. A biological, adoptive, or foster parent, stepparent, or 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.
 3. A spouse.
 4. A registered domestic partner.
 5. A grandparent.
 6. A grandchild.
 7. A sibling.
- G. The covered employee 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.
1. A “child” is defined as 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 applies regardless of age or dependency status.

How do I request Supplemental Paid Sick Leave?

Complete the Supplemental Paid Sick Leave (SPSL) request form and submit to your supervisor, along with any supporting documentation. The SPSL request form can be found at the following link:

https://employeeservices.sccgov.org/sites/g/files/exjcpb531/files/documents/2022_SPSL_Request_Form_021822.pdf

My regular compensation exceeds \$5,110 for 80 hours/a full pay period. What will happen when I reach the maximum compensation cap, and I continue using my allotment of SPSL?

Employees whose regular gross income exceeds \$5,110 per pay period may choose to take any SPSL hours that exceed the compensation cap as unpaid time off or supplement with their other available leave accruals, if any, to maintain their regular compensation rate.

Will Part-time and Extra Help/Temporary employees receive Supplemental Paid Sick Leave?

Yes, all active employees, regardless of code status, are eligible for up to 80 hours that may be used for COVID-19 related absences as described above.

What if an employee is absent for a reason unrelated to COVID-19?

Absences that are unrelated to COVID-19 are not covered by SPSL. Employees may use other appropriate accrued leave to cover non-COVID-19 related absences. If you are unsure if the request for leave is related to COVID-19, you should ask your manager/supervisor or contact your department's Employee Service Center.

Can Supplemental Paid Sick Leave be used retroactively for COVID-19 related absences prior to February 18, 2022?

Yes, an employee may make a request in writing to use Supplemental Paid Sick Leave for certain COVID-19 related absences occurring on or between January 1, 2022, and February 17, 2022. The form to request retroactive use of Supplemental Paid Sick Leave can be found at the following link: [2022 SPSL Retro Request Form 021822.pdf \(sccgov.org\)](https://www.sccgov.org/docs/humanresources/leaveandfringe/SPSL/2022_SPSL_Retro_Request_Form_021822.pdf)

Can an employee be required to submit COVID-19 test results or other documentation to receive SPSL?

Yes, in certain circumstances.

Documentation may be required before approving a request for SPSL if an employee is using the COVID-19 Supplemental Paid Sick Leave that is only available after a positive test. If the employee fails to provide the result of the test, the request may be denied.

When an employee uses more than three days or 24 hours for a single vaccine appointment and recovery from any related side effects, medical certification that the employee required more time to recover from those side effects may be required.

An employee may be required to submit a COVID-19 test result on or after the 5th day since the employee tested positive for COVID-19. In addition, an employee may be required to submit another COVID-19 test result after 24 hours have passed from the 5th day test. If the employee fails to provide the result of the test, the request may be denied.

Requests For Time Off Unrelated to COVID-19

Absences due to illness/injury unrelated to COVID-19 should be treated as normal requests for leave (sick leave accruals, FMLA/CFRA, etc.).

Requests for time off for personal reasons should be treated as normal requests for leave (vacation, comp-time, Personal Leave, PTO, etc.), subject to the operational needs of the department.

Please contact Gina Donnelly, Deputy Director, Employee Services Agency, at gina.donnelly@esa.sccgov.org or (408) 209-7322 if you have any questions regarding this information.