

Supplemental Paid Sick Leave (PSL) FAQ

• • • Which employees are eligible for California COVID-19 Supplemental PSL?

The provision applies only to employees who are required to leave home to perform their work in California. If the employee is required to leave home to perform their work for a qualifying employer (i.e., an employer with over 500 employees in the United States), the employee is entitled to COVID-19 Supplemental PSL if they are unable to work because they are:

- subject to a Federal, State or local quarantine or isolation order related to COVID-19;
- advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19; or
- prohibited from working by the hiring entity due to health concerns related to the potential transmission of COVID-19.

• • • How much CA COVID-19 Supplemental PSL are eligible employees entitled to?

The number of hours depends on their classification:

- Full-time employees (or those who worked or were scheduled to work an average of at least 40 hours/week in the two weeks before the leave is taken) are entitled to 80 hours.
- Part-time / Variable-hour employees have varying levels of leave entitlement:
 - Those with variable schedules are entitled to 14X the average number of hours worked per day over the past 6 months.
 - Part-time workers with a normal weekly schedule are entitled to the number of hours they are normally scheduled to work over two weeks.

Eligible workers who take qualifying sick leave must be paid the highest of the following (not to exceed **\$511** per day and **\$5,110** total):

- The worker's regular rate of pay for the last pay period
- State minimum wage
- Local minimum wage

The calculation of part-time and variable hours will be based upon the hours submitted to Media Services.

• • • How to determine if you are a qualifying employers with 500+ employees?

The 500-employee threshold is calculated the same way as under the FFCRA. An overview is set forth below; however, detailed information can be found at [29 C.F.R section 826.40](#).

To determine the number of employees employed, the employer must count all full-time and part-time employees employed within the United States at the time the employee would take leave. For purposes of this count, every part-time employee is counted as if he or she were a full-time Employee.

The number of employees includes, but is not limited to, all employees currently employed, regardless of how long those Employees have worked for the employer; any employees on leave of any kind; employees of temporary placement agencies who are jointly employed under the FLSA by the employer and another employer (regardless of which employer's payroll the employee appears on).

The number of employees does not include workers who are deemed independent contractors, rather than employees, under the FLSA. Nor does the number of employees include workers who have been laid off or furloughed and have not subsequently been reemployed.

Typically, a corporation (including its separate establishments or divisions) is considered a single employer, and all its employees must be counted together. Where one corporation has an ownership interest in another corporation, the two corporations are separate employers unless they are joint employers under the Fair Labor Standards Act. In general, two or more entities are separate employers unless they meet the integrated employer test under the Fair Labor Standards Act. Factors considered in determining whether two or more entities are an integrated employer include (i) common management; (ii) interrelation between operations; (iii) centralized control of labor relations; and (iv) degree of common ownership/financial control. If two entities are an integrated employer under this test, then employees of all entities making up the integrated employer must be counted.

• • • Do union workers qualify?

Yes. Union workers under a CBA are not specifically excluded from the legislation. Independent contractors (1099) are expressly excluded. However, we are aware that certain unions and guilds have agreed to terms that would set forth specific COVID related sick leave provisions and allocations for their members. As more information becomes available, we will provide further updates.

• • • Who pays for the supplemental PSL, the state or the hiring entity?

The hiring entity must pay for the hours of leave utilized. There is no reimbursement from the State of California or the federal government at this time.

• • • Will Cast & Crew payroll entities calculate and track this supplemental PSL in a separate line item on covered employee's wage statements?

Yes. If the covered employee is working in California for a qualifying employer, the employee's available COVID-19 Supplemental PSL balance will appear on their wage statements.

• • • Is this new California Covid-19 Supplemental Sick Leave permanent?

No. When this law expires, so does the Employee's available COVID-19 Supplemental Sick Leave. The law is effective through December 31, 2020, or until the expiration of the FFCRA's emergency paid sick leave requirements, whichever is later. This means that although the FFCRA's paid sick leave requirements also are set to expire on December 31, 2020, California Covid-19 Supplemental Sick Leave (AB 1867) will be extended if the federal government extends the FFCRA's paid sick leave requirements.

• • • Any other requirements we should know about?

Yes. You must place a notice of this provision in a conspicuous location in the workplace. You can download a poster from the website of the California Department of Industrial Relations [here](#). (If workers do not frequent a specific workplace, you can satisfy this requirement by distributing the notice via email.)

Below are some helpful links to the FAQs, COVID-19 Paid Leave comparisons and the bill text.

www.dir.ca.gov/dlse/FAQ-for-PSL.html

www.dir.ca.gov/dlse/Comparison-COVID-19-Paid-Leave.html

leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB1867

• • • What action do I need to take to be ready for this?

If your organization has 500 or more employees nationwide, and your organization has or intends to have employees working in California, please advise us immediately at clientservices@mediaservices.com.