

*This summary is for informational purposes only. Please direct questions about specific impacts to your employment counsel.*

In response to the Families First Coronavirus Response Act (FFCRA), which mandated paid sick leave for employers with fewer than 500 employees, several cities in California have responded by passing emergency ordinances requiring employers with over 500 employees to provide their employees paid sick leave.

This document includes summaries for the cities of:

- [Los Angeles](#)
- [San Francisco](#)
- [San Jose](#)

## Los Angeles

On April 7, 2020, the Mayor of Los Angeles (the City) issued an emergency public order requiring certain large employers to provide supplemental paid sick leave (SPSL) to their employees. The full text of the emergency order can be found [here](#). The rules implementing the Mayor's order can be found [here](#).

**Effective Date:** April 7, 2020

**Duration:** In effect until two calendar weeks after the expiration of the City's COVID-19 public health emergency period.

**Covered employers:** Employers with 1) 500 or more employees in the City, or 2) 2,000 or more employees nationally.

**Covered employees:** Employees are individuals who perform any work within the geographic boundaries of the City for a covered employer.

**Eligibility:** Employees employed by the same employer from February 3, 2020 through March 4, 2020 are entitled to SPSL, if the employee is unable to work or telework. Full-time employees working at least 40 hours a week are entitled to 80 hours of SPSL. Part-time employees working less than 40 hours per week are entitled to SPSL in an amount no greater than the employee's average two-week pay during the period from February 3, 2020 through March 4, 2020.

**Exceptions:** The emergency order allows certain employees to be exempt from the order:

- **Emergency personnel and health care workers:** Definition of emergency personnel is in the City's April 1, 2020 emergency order (includes all first responders, gang and crisis intervention workers, public health workers, emergency management personnel, emergency dispatchers, law enforcement personnel, and contractors working for emergency service providers) and health care workers are defined in the California Government Code and the Health and Safety Code.
- **Critical parcel delivery employees:** Global parcel delivery services have been identified as an essential emergency service.
- **Generous leave providers:** Employers providing a minimum of 160+ hours of paid leave annually are exempt from the requirement to provide SPSL.
- **New business exemption:** Businesses that started in or relocated to the City from September 4, 2019 to March 4, 2020 are exempt. To qualify, the business could not have been a business within the City in the 2018 tax year. The exemption does not apply to construction businesses or film producers as defined in the Los Angeles Municipal Code.
- **Government agencies:** Government agencies are not covered by the emergency order.

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- Closed businesses: Any business or organization closed for a period of 14 or more days due to a City official's emergency order because of COVID-19 or provided at least 14 days of leave are exempt.
- Exemptions for employees covered under a collective bargaining agreement (CBA): A CBA in place on the date of the emergency order may supersede the provisions in the emergency order.

**Entitlement:** Same as the FFCRA:

- Full-time employees: 80 hours
- Part-time employees: An amount no greater than the employee's average two-week pay during the period from February 3, 2020 through March 4, 2020.

**Offsets:** An employer's obligation to provide the 80 hours of SPSL under the Public Order is reduced for every hour an employer allowed an employee to take paid leave in an amount equal to or greater than the requirements outlined in the Public Order, not including previously accrued hours on or after March 4, 2020, for any COVID-19 leave.

**Leave Reasons:** Employees are entitled to SPSL on oral or written request if:

1. The employee needs time off due to COVID-19 infection or because a "public health official or health provider requires or recommends the Employee isolate or self-quarantine to prevent the spread of COVID-19;"
2. The employee takes time off because they are at least 65 years old or have a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease or a weakened immune system.
3. The employee needs to care for a family member who is not sick, but who public health officials or healthcare providers have required or recommended self-quarantine; or
4. The employee needs to provide care to a family member whose senior care provider, school, or childcare provider (for a child under the age of 18) temporarily closes in response to a public health official's recommendation. This provision is only applicable when the employee is unable to secure a reasonable alternative caregiver.

**Documentation:** The emergency order prohibits employers from requiring a doctor's note or other documentation.

**Pay Rate:** For full-time employees, SPSL is based on an employee's average two-week pay over the period of February 3, 2020 through March 4, 2020. For part-time employees, their SPSL will be an amount no greater than the employee's average two-week pay during the period from February 3, 2020 through March 4, 2020. SPSL is capped at \$511 per day and \$5,110 in the aggregate. Employees of joint employers are only entitled to the total aggregate amount of leave as if they worked for one employer.

## **San Francisco**

On April 17, 2020, the Mayor of San Francisco signed an emergency ordinance adopted by the San Francisco Board of Supervisors requiring private employers with 500 or more employees to provide the same amount of Public Health Emergency (PHE) Leave as mandated in the Families First Coronavirus Response Act – 80 hours for full-time employees and the average number of hours a part-time employee works over a two-week period. The text of the ordinance can be found [here](#).

Implementation guidance from the San Francisco Office of Labor Standards Enforcement can be found [here](#).

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**Effective Date:** April 17, 2020

**Duration:** The PHE leave is in effect until June 17, 2020, unless extended by the Board of Supervisors or upon termination of the Public Health Emergency declaration, whichever occurs first.

**Covered employers:** Employers with 500 or more employees. However, employers defined as “covered employers” under the federal FFCRA are not covered by the new ordinance. The number of employees is based on the employer’s total number of employees, not only those working in San Francisco.

**Eligibility:** Employees who work in San Francisco or employees who may provide limited work in San Francisco but are covered by San Francisco’s Paid Sick Leave Ordinance. Includes part-time employees and Welfare-to-Work programs.

**Exceptions:** The ordinance allows employers of health care providers and emergency responders to limit their employee’s PHE leave, but these employees may use leave if they are unable to work or telework because a health care provider advised them to self-quarantine, they are experiencing COVID-19 symptoms, they are seeking a COVID-19 diagnosis, or they do not meet the Centers for Disease Control and Prevention recommended criteria for return to work for a healthcare provider who was diagnosed or was suspected to have COVID-19.

**Entitlement:** Same as the FFCRA:

- Full-time employees – 80 hours
- Part-time employees – entitled to the number of hours equal to the average number of hours over a two-week period the employee was scheduled over the previous six months ending on February 25, 2020, including hours the employee took any type of leave.

**Offsets:**

- The PHE leave allows employers providing additional leave in response to COVID-19 to offset that leave from the new PHE leave requirement.
- PHE leave is in addition to any paid time off employers offered or provided to employees before April 17, 2020 including San Francisco Paid Sick Leave.
- PHE leave may be offset from leave provided under the California Supplemental Paid Sick Leave Executive Order.
- PHE leave is in addition to any non-COVID-19 employer-provided paid leave benefits in place when the ordinance goes into effect. Employers may not change their paid time off policies after the ordinance goes into effect except to provide additional leave.
- PHE leave may be used before using other accrued paid time off or employees may use other paid time off before using PHE leave, but the choice rests with the employee.

**Leave Reasons:** Employees who cannot work or telework may take PHE leave for any of the following reasons:

1. An employee being subject to an individual or general federal, state or local quarantine or isolation order related to COVID-19.
  - Includes, but is not limited to, an employee who is unable to work due to the shelter-in-place order issued by the governor and/or San Francisco, any subsequent orders requiring residents to stay in their homes during the emergency, or shelter-in-place orders issued by other San Francisco Bay Area jurisdictions.
  - Includes an employee who is a member of a "vulnerable population" per the San Francisco Department of Public Health and unable to work due to recommendations in orders issued by the Department, or any

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order issued by the governor or Bay Area jurisdictions requiring additional restrictions for vulnerable or high-risk populations. The "vulnerable population" includes people who are 60 years old and older, people with certain health conditions such as heart disease, lung disease, diabetes, kidney disease and weakened immune systems and people who are pregnant or were pregnant in the last two weeks.

2. An employee being advised by a health care provider to self-quarantine.
3. An employee experiencing symptoms associated with COVID-19 and seeking a medical diagnosis.
4. An employee caring for a family member who is subject to an order described in 1, has been advised as described in 2, or is experiencing symptoms as described in 3.
5. An employee caring for a family member whose school or place of care has been closed, or whose care provider is unavailable, due to the PHE.
6. An employee experiencing any other substantially similar condition specified by the local health officer, or under the federal FFCRA [Section 5102(a)(6)] by the U.S. Secretary of Health and Human Services.

**Covered family members:** The employee's child; grandchild; grandparent; legal guardian or ward, parent; sibling; spouse or registered domestic partner. If employees do not have a spouse or registered domestic partner, they may designate one person for whom they may use PHE leave. Child, parent, sibling, grandparent and grandchild relationships include relationships resulting from adoption; step-relationships; and foster care relationships. "Child" also includes child of domestic partner.

**Pay Rate:** Same as the San Francisco Paid Sick Leave Ordinance.

**Poster Requirements:** Notice of PHE leave must be provided in a method reaching all employees whether by physical posting in a job location or providing via electronic means. The notice is available [here](#).

## San Jose

On April 7, 2020, the San Jose City Council enacted two ordinances requiring covered employers to provide emergency paid sick leave (PSL). The ordinances can be found [here](#).

**Effective Date:** April 7, 2020

**Duration:** In effect until December 31, 2020.

**Covered employers:** Employers not required to provide paid sick leave benefits under the federal Emergency Paid Sick Leave Act that was part of the FFCRA. Employer also means a person or entity that is an employer as defined in the City's Minimum Wage Ordinance.

**Eligibility:** Employees who have worked at least two hours within the geographic boundaries of the City for an employer. Certain determinations of employee status will be made according to the California Labor Code.

**Exceptions:** PSL does not apply to employees who can work from home. Also, PSL does not apply to any employer that provides an equivalent amount of paid personal leave as required by the ordinance as of April 7, 2020. If an employer provides less than the amount of paid personal leave required under the ordinance, the employer must provide leave up to the amount required by the ordinance.

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**Entitlement:** same as the FFCRA:

- Full-time employees: 80 hours
- Part-time employees: Average number of hours the employee worked over a two-week period.

**Leave Reasons:**

1. An employee being subject to quarantine or isolation order by federal, state or local order related to COVID-19, or is caring for someone who is quarantined or isolated due to COVID-19.
2. An employee being advised by a health care provider to self-quarantine due to COVID-19 or is caring for someone who is being advised to quarantine by a health care provider.
3. An employee who is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
4. An employee who is caring for a minor child because a school or daycare provider is closed due to COVID-19.

**Pay Rate:** Employees should be paid at their regular rate of pay up to \$511 per day or \$5,110 in the aggregate for their own sick leave. Employees who are caring for another person should be paid two-thirds of their regular rate of pay up to \$200 per day or \$2,000 in the aggregate. For part-time employees, the rate of pay will be based on the average number of hours the employee worked per day during the six months immediately preceding April 7, 2020, the effective date of the ordinance. If the employee has worked for the employer for less than six months, the employer must base the rate of pay on the number of hours the employee was expected to work at the time of hire.