

# 2021 COVID-19 Supplemental Paid Sick Leave (“SPSL”) Law

## Employee Guidance FAQs

### Coverage

#### 1. Which employees are covered by this new law?

Covered employees include all County full-time; part-time; services-as-needed (“SAN”) and temporary assignment pool (“TAP”) designated employees who cannot work or telework due to the reasons listed below in FAQ 2.

### Reasons for Taking Leave

#### 2. What are the circumstances that allow a covered employee to take SPSL?

The covered employees must be unable to work or telework due to any one of the following COVID-19-related reasons:

- **Caring for Yourself:** The covered employee is subject to a quarantine or isolation period related to COVID-19 (see note below); or has been advised by a healthcare provider to quarantine due to COVID-19; or is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- **Caring for a Family Member:** The covered employee is caring for a family member who is either subject to a quarantine or isolation period<sup>1</sup> related to COVID-19 (see note below) or has been advised by a healthcare provider to quarantine due to COVID-19, or the employee is caring for a child whose school or place of care is closed or whose school or place of care is unavailable due to COVID-19 on the premises.
- **Vaccine-Related:** The covered employee is attending a COVID-19 vaccine appointment or cannot work or telework due to COVID-19 vaccine-related symptoms.

#### 3. Is a covered employee eligible for SPSL if someone with whom the covered employee lives is exposed, experiences symptoms, or is diagnosed with COVID-19?

Yes. A covered employee is eligible for SPSL if the employee is caring for a family member whom a medical professional has recommended to stay home due to COVID-19 or caring for a family member who is subject to a COVID-19 related quarantine or isolation period as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the family member’s workplace.

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<sup>1</sup> The quarantine or isolation period related to COVID-19 is the period defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the workplace.

**4. Does being subject to a general stay-at-home order mean that a covered employee is “subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the California Department of Public Health, the federal Centers for Disease Control and Prevention, or a local health officer with jurisdiction over the workplace”?**

No. The order or guidelines must be specific to the covered employee’s circumstances. A general stay-at-home or “shelter in place” order would not count. However, guidelines or an order of a local health officer that directs individuals who live with someone who has COVID-19 to quarantine themselves would satisfy the eligibility requirement for taking SPSL.

**Start Date and End Date**

**5. What time period does SPSL Cover?**

January 1, 2021 through September 30, 2021. Although the law was signed on March 19, 2021, the SPSL does not start until March 29, 2021. Starting March 29, SPSL will apply retroactively to January 1, 2021, which means that covered employees who took qualifying leave between January 1, 2021 and March 28, 2021 can request a timecard adjustment to use SPSL in lieu of the employee’s own sick leave, leave without pay or other accrued leave previously used.

The requirement to provide SPSL will end on September 30, 2021. If the law expires while a covered employee is taking this leave, the employee can remain off work and finish taking the remaining amount of SPSL they are entitled. For example, if an employee (who has not used this leave) must take time off due to an SPSL a qualifying reason for the period of September 27 through October 5, 2021, the employee would be allowed to use SPSL through October 5, 2021.

**Calculating Leave**

**6. How much SPSL is a full-time covered employee entitled to receive?**

A full-time covered employee worked or was scheduled to work an average of at least 40 hours per week in the two weeks (excluding overtime for non-exempt or exempt overtime-eligible employees) before the leave is taken is entitled to 80 hours of SPSL (and subject to the maximum benefit of \$511 per day and \$5,110 in aggregate).

A covered employee who is considered full-time and who worked or was scheduled to work an average of at least 37.5 hours per week in the two weeks before the leave is taken is entitled to 80 hours of SPSL (and subject to the maximum benefit of \$511 per day and \$5,110 in aggregate).

**7. How do you calculate the leave entitlement for a part-time covered employee who does not have a set schedule?**

Below are the two methods to calculate the entitlement for part-time covered employees.

- Part-Time Covered Employees with Variable Schedules Who Have Worked for the County for a Period of More Than 14 Days.

The employee may take 14 times the average number of hours the covered employee worked each day in the 6-months preceding the date the covered employee takes SPSL. If the employee has worked for the County for fewer than 6-months, this calculation would be done over the entire period that the covered employee has worked for the County. If the variable schedule calculation results in an average work schedule of at least 40-hours per week, the variable-scheduled covered employee would be considered full time and entitled to 80-hours of leave because the laws require the County to pay 80-hours of SPSL

to a covered employee it properly considers full-time but does not require payment for more than 80-hours.

In calculating the average number of hours worked by a part-time covered employee with a variable schedule over the past 6-months, the figure is determined based on the total number of days in the 6-month period, not just the number of days worked. Below is an example using a 6-month period that contains a total of 182 days (26 weeks):

Total Number of Hours Worked During 6-Month Period	520 hours
Total Number of Days in 6-Month Period	182 days
Average Number of Hours Worked Each Day in 6-Month Period	$520 \text{ hours} \div 182 \text{ days} = 2.857 \text{ hours}$
SPSL Entitlement	$2.857 \times 14 = 40 \text{ hours}$

- Part-Time Covered Employees with Variable Schedules Who Have Worked for the County for a Period of 14 Days or Fewer.

The employee who is newly hired (i.e., hired 14 days or less) and works variable hours will be entitled to the number of SPSL hours that they have worked in the preceding 2-weeks.

Below is an example of the calculation where such a new covered employee has worked for a total of 2-days—1-day for 1-hour and a 2nd day for 6-hours over the past 2-weeks:

Total Number of Hours Worked During the 2-Week Period	7-hours
Total Number of Days in a 2-Week Period	14 days
Average Number of Hours Worked Each Day in the 2-Week Period	$7\text{-hours} \div 14 \text{ days} = .5\text{-hours}$
SPSL Entitlement	$.5\text{-hours} \times 14 = 7\text{-hours}$

**8. At what hourly rate will a covered non-exempt employee be paid for SPSL that the employee is entitled to receive?**

For each hour of SPSL that a non-exempt covered employee is entitled to receive, the employee is paid the highest of the following:

- The employee’s regular rate of pay for the workweek in which the leave is taken.
- A rate calculated by dividing the employee’s total wages, not including overtime premium pay, by the employee’s total hours worked in the full pay periods of the prior 90-days of employment.
- The State minimum wage.
- The Local minimum wage.

**The maximum benefit is \$511 per day and \$5,110 in the aggregate to a covered employee for SPSL taken by the covered employee,** but the covered employee may utilize other paid leave that may be available in order to receive what they would normally earn if the cap is reached.

## Credits

**9. If an employee was required to take time off work (was unable to telework) due to a qualifying reason (FAQ 2), will the County make a “retroactive” adjustment and use the employee’s SPSL for the time the employee was on leave?**

Yes, upon the employee’s request, the County will make an adjustment corresponding to the amount of the retroactive payment/leave received and this amount counts toward the total number of hours (up to the maximum allowed value of those hours) of SPSL that the covered employee is entitled to receive, under the following circumstances:

- The retroactive payment is for leave taken by the covered employee between January 1, 2021 and March 28, 2021
- The leave taken by the covered employee was for one of the qualifying reasons under the SPSL law (see FAQ 2), and

**10. If the value of 1-day of SPSL only covers the equivalent of 5-hours, can the employee supplement their own accrued leave to make up the difference?**

Yes, upon the employee’s request, the County will integrate the employee’s own accrued leave to make up the difference between the SPSL and the employee’s scheduled work hours. For example, even if a full-time employee earns \$100 per hour (\$800 per eight-hour day), the employee’s SPSL leave is capped at a maximum of \$511 per day. The employee may request to supplement their daily salary with an additional \$289 from any existing leave balances to bring their total daily gross earnings to \$800.

**11. If an employee was required to quarantine and was unable to work or telework due a COVID-19 workplace exposure, and the employee was placed on COVID-19 paid administrative leave (“PAL”), will the County make a “retroactive” adjustment and use the employee’s SPSL for the time the employee was on PAL?**

Yes. When an employee was excluded from work and received PAL for the corresponding period of time required to quarantine due to the COVID-19 workplace exposure (on or after January 1, 2021), the County will make a retroactive adjustment as indicated in FAQ 9 for the PAL used. The employee is required to use their SPSL before being provided PAL exclusion pay, if eligible for such exclusion pay.

**12. If an employee was required to quarantine and was unable to work or telework due a COVID-19 workplace exposure and only used only sick leave (was not placed on PAL) during the quarantine period, will the County make a “retroactive” adjustment and use the employee’s SPSL for the time the employee was on PAL?**

Yes, upon the employee’s request as noted in FAQ 9 above.

## Relation to Other Laws

**13. Is SPSL different than the COVID-related paid sick leave provided to employees under the federal Families First Coronavirus Response Act (“FFCRA”) or the Emergency Paid Sick Leave Act (“EPSLA”) laws in 2020?**

Yes. Both the FFCRA and EPSLA laws expired on December 31, 2020. The new SPSL allows covered employees to take up to an additional 80 hours of COVID-19 related sick leave during the time period covering January 1, 2021 through September 30, 2021.

**14. Can the County require that an employee use SPSL when an employee is excluded for workplace exposure to COVID-19?**

Yes. When an employee is excluded from work and entitled to PAL exclusion pay (see [Exclusion Pay FAQ link](#)), the employee is required to use their SPSL before being provided exclusion pay.

## Additional Information

**15. Where can employees obtain additional information about SPSL?**

Employees may obtain additional information by visiting the State of California, Department of Industrial Relations [website](#).