

Legislation Expands COVID-19 Supplemental Paid Sick Leave

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[Correction Note: We have amended this article to clarify the qualifying reasons for leave under SB 95]

On Friday, March 19, 2021, Governor Gavin Newsom signed Senate Bill (SB) 95, which creates uniform, statewide policy to ensure employees have access to COVID-19 supplemental paid sick leave through September 30, 2021. You may recall that the federal stimulus bill enacted in December 2020 did not provide an extension of the Families First Coronavirus Response Act (FFCRA), thus Emergency Paid Sick Leave and the Emergency Family and Medical Leave Expansion Act expired December 31, 2020. Absent federal or state law requiring community college districts to provide FFCRA leave, many have relied on local ordinances or accrued leave, unpaid leave, and other statutory leave entitlements to manage employee absences for COVID-19-related reasons.

SB 95 reinstates COVID-19 leave as a provision of state law and expands it to all public and private entities, including community college districts. SB 95 is retroactive to sick leave taken beginning January 1, 2021, and employers with 25 or fewer workers are exempt from this leave provision. Community college districts that have provided COVID-19 leave locally since January 1, 2021, are in compliance with SB 95 due to the retroactive nature of the statute.

The qualifying reasons for leave under SB 95 are similar to those for FFCRA leave, with the addition of leave provided for employees to receive a COVID-19 vaccine. To qualify for the leave, a worker must be unable to work due to one of the following reasons:

- The worker is subject to a federal, state, or local quarantine or isolation order related to COVID-19
- The worker is advised by a health care provider to self-quarantine or self-isolate due to concerns related to COVID-19
- The worker is prohibited from working by the worker's hiring entity due to health concerns related to the potential transmission of COVID-19
- The worker is attending an appointment to receive a vaccine for protection against contracting COVID-19
- The worker is experiencing symptoms related to a COVID-19 vaccine that prevents the worker from being able to work
- The worker is experiencing symptoms of COVID-19 and seeking a medical diagnosis
- The worker is caring for an individual who is subject to a quarantine or isolation order, has been advised to self-quarantine or self-isolate, or is experiencing symptoms of COVID-19 and seeking a medical diagnosis
- The worker 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

A worker who is considered full-time or who worked, or was scheduled to work, an average of at least 40 hours per week in the two weeks before the leave is taken is entitled to 80 hours of COVID-19 Supplemental Paid Sick Leave.

As stated above, if your community college district extended leave entitlements for COVID-related reasons beyond the expiration of the FFCRA and has been providing supplemental paid sick leave, your community college district is already providing leave in compliance with SB 95. Any supplemental paid sick leave provided since January 1, 2021, would be inclusive of the required 80 hours, or simply put, is running concurrent with SB 95 leave. We recommend that you work closely with legal counsel to ensure the application of leave is legally compliant.