

Local Emergency Paid Sick Leave Ordinances in California

SAN FRANCISCO Public Health Emergency Leave Ordinance (PHELO) (effective April 17, 2020 through June 17, 2020¹)						
Covered Employer	Covered Employee	Amount and Calculation of Leave	Triggering Conditions	Employer Restrictions	Exemptions	Obligations on Separation of Employment?
<p>“Employer” means any person, as defined in Section 18 of the California Labor Code, including corporate officers or executives, who directly or indirectly or through an agent or any other person, including through the services of a temporary services or staffing agency or similar entity, employs or exercises control over the wages, hours, or working conditions of an employee.</p> <p><u>Private employers with 500 or more employees worldwide</u></p>	<p>“Employee” means any person providing labor or services for remuneration who is an employee under California Labor Code Section 2750.3(a), including a part-time or temporary employee who performs work as an employee within the geographic boundaries of the City, those considered employees under San Francisco’s existing Paid Sick Leave Ordinance, and certain participants in “Welfare-to-Work Programs.”</p>	<p>A covered employer must provide a <u>full-time</u> San Francisco employee (who works 40 hours a week) as of February 25, 2020 with <u>80 hours of Public Health Emergency Leave</u>.</p> <p>A covered employer must provide a <u>part-time</u> San Francisco employee as of February 25, 2020 the number of Public Health Emergency Leave hours equal to the average number of hours over a two-week period that</p>	<p>The employee is unable to work (either at the employee’s customary place of work or telework) due to any of the following:</p> <p>(1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, including Governor Newsom’s statewide shelter-in-place order, or other local shelter-in-place orders. This includes an employee who is a member of a “vulnerable population” defined in Public Health</p>	<p>While an employer can ask an employee to identify the basis for requesting Public Health Emergency Leave, an employer cannot require the disclosure of health information or a doctor’s note.</p> <p>An employer cannot require an employee to use other accrued paid time off before using Public Health Emergency Leave.</p> <p>An employer cannot require that an employee find a replacement worker</p>	<p>An employer can <u>limit</u> application of the PHELO for a <u>health care provider or emergency responder</u>, but <u>must</u> provide Public Health Emergency Sick Leave for such an employee if: (1) a health care provider has advised them to self-quarantine, or (2) they are experiencing COVID-19 symptoms, seeking a medical diagnosis, and do not meet the CDC guidance for criteria to return to</p>	<p>Upon an employee’s separation from employment, an employer is no longer obligated to provide or pay for any Public Health Emergency Leave not used prior to separation. However, if an employee separates from an employer for any reason and is rehired by the employer within one year from the date of separation, unused Public Health Emergency Leave shall be reinstated. The employee shall be entitled to use the</p>

¹ The PHELO took effect on April 17, 2020 and will expire on June 17, 2020, unless the Board of Supervisors reenacts it or the Public Health Emergency is terminated, whichever occurs first.

<p><u>must comply with the PHELO for covered San Francisco employees.</u> For purposes of calculating employer size, all persons performing work for the employer are counted (not just those who work in San Francisco).</p> <p>The PHELO <u>does not cover employers required to comply with the federal Family First Coronavirus Response Act (FFCRA).</u></p>	<p>An employer of an <u>employee who is a health care provider or emergency responder can choose to limit</u> the use of Public Health Emergency Leave available to these employees, but <u>must provide</u> Public Health Emergency Leave when the employee is unable to work (at their customary place of work or telework) because either: (1) a health care provider has advised them to self-quarantine; or (2) they are experiencing COVID-19 symptoms, seeking a medical diagnosis, and do not meet the CDC guidance for criteria to return to work for health care personnel with confirmed or suspected COVID-19.</p>	<p>the employee was scheduled over the previous six months ending on February 25, 2020, including hours for which the employee took leave of any type.</p> <p>Employers must compensate employees for Public Health Emergency Leave <u>in the same manner as sick leave is calculated under San Francisco’s existing Paid Sick Leave Ordinance.</u></p> <p>Public Health Emergency Leave <u>is in addition to what the covered employer’s vacation or sick leave policies provide,</u> including paid sick leave under San Francisco’s</p>	<p>Order No. C19-05 as including: 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.</p> <p>(2) The employee has been advised to self-quarantine by a health care provider;</p> <p>(3) The employee has COVID-19 symptoms and is seeking a diagnosis;</p> <p>(4) The employee is caring for a family member² who is subject to a quarantine or isolation order, is self-quarantining, or has COVID-19</p>	<p>to cover the employee’s hours used during Public Health Emergency Leave as a condition of taking such leave.</p> <p>An employer cannot require that an employee take leave in increments of more than one hour.</p> <p>An employer cannot modify any paid time off policies on or after the enactment of the PHELO, except to provide additional paid leave.</p>	<p>work for health care personnel with confirmed or suspected COVID-19. (See “Covered Employee.”)</p>	<p>unused Public Health Emergency Leave upon rehiring. According to San Francisco’s Office of Labor Standards Enforcement, a “furlough” is not considered a separation from employment under the PHELO.</p>
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² “Family member” means: child; parent; legal guardian or ward; sibling; grandparent; grandchild; spouse or registered domestic partner under any state or local law; and Designated Person. These relationships include not only biological relationships but also relationships resulting from adoption, step-relationships, and foster care relationships.

		<p>existing Paid Sick Leave Ordinance. However, the PHELO <u>provides an offset reducing an employer's obligation for every hour of paid leave or paid time off the employer allowed an employee to take for purposes consistent with the ordinance above the employer's normal policies (other than previously accrued hours) on or after February 25, 2020.</u></p> <p>Employees are not entitled to more than 80 hours of Public Health Emergency Leave.</p> <p>Employers are <u>not required to provide Public Health Emergency Leave in addition to any leave provided under the California Supplemental Paid</u></p>	<p>symptoms;</p> <p>(5) The employee is caring for a family member whose school, place of care, or care provider is unavailable due to the public health emergency; or</p> <p>(6) The employee is experiencing a substantially similar condition.</p>			
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		<u>Sick Leave Act.</u> Employers that provide paid leave under the California Supplemental Paid Sick Leave Executive Order are permitted to offset that leave from the requirement.				
LOS ANGELES COVID-19 Supplemental Paid Sick Leave Emergency Order (the “Order”) (effective April 7, 2020 ³)						
Covered Employer	Covered Employee	Amount and Calculation of Leave	Triggering Conditions	Employer Restrictions	Exemptions	Obligations on Separation of Employment?
“ Employer ” is a person in Section 18 of the California Labor Code, including a corporate officer or executive, who directly or through an agent or any other person, including through the services of a temporary service or staffing agency or similar entity, employs or exercises control over the	“ Employee ” means an individual who performs any work within the geographic boundaries of the City for an Employer. An employee who has been employed with the same employer from February 3, 2020 through March 4, 2020, is entitled to supplemental paid sick leave, <u>if an</u>	An employee who works at least 40 hours per week or is classified as a <u>full-time</u> employee by the employer is entitled to <u>80 hours of supplemental paid sick leave</u> , calculated based on an employee's <u>average two-week pay</u> over the period of February 3, 2020 through March 4, 2020.	Upon oral or written request, an employer must provide supplemental paid sick leave to an employee for the following reasons: (1) The employee is suffering from a COVID-19 infection or because a public health official or healthcare provider requires or recommends the	Employers may not require a doctor’s note or other documentation for the use of the supplemental paid sick leave.	<u>Emergency and Health Services Personnel</u> <u>Critical Parcel Delivery</u> <u>Generous Leave:</u> An employer is exempt if the employer has a paid leave or paid time off policy that provides a minimum of 160	

³ The Order provides that it shall be in effect until two calendar weeks after the expiration of the COVID-19 local emergency period.

<p>wages, hours or working conditions of any Employee.</p> <p>The Order shall apply to an employer that has either: <u>(i) 500 or more employees within the City of Los Angeles; or (ii) 2,000 or more employees within the United States.</u></p>	<p><u>Employee is unable to work or telework.</u></p>	<p>An employee who works less than 40 hours per week and is not classified as a full-time employee is entitled to receive supplemental paid sick leave in an amount no greater than the employee's <u>average two-week pay</u> over the period of February 3, 2020 through March 4, 2020.</p> <p>In no event shall the supplemental paid sick leave amount paid to an Employee exceed \$511 per day and \$5,110 in the aggregate.</p> <p>An employer's obligation to provide 80 hours is reduced by each hour the employer allowed an employee to take paid leave in an</p>	<p>employee isolate or self-quarantine to prevent the spread of COVID-19;</p> <p>(2) The employee is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system (notably, this reason is not available in the FFCRA);</p> <p>(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 isolation or self-quarantine; or</p> <p>(4) The employee needs to provide care for a family member whose senior care provider or whose school or child care</p>		<p>hours of paid leave annually.</p> <p><u>New Business Exemption:</u> New businesses that started in the City or businesses that relocated from outside the City on or after September 4, 2019 through March 4, 2020. To qualify, an employer could not have been in business in the City in the 2018 tax year. Construction businesses and film producers are excluded from this exemption.</p> <p><u>Government</u></p> <p><u>Closed Businesses and Organizations:</u> Any business or organization that was closed or not operating for a period of 14 or more days due to a city official's</p>	
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SAN JOSE COVID-19 Paid Sick Leave Ordinance (the "Ordinance") (effective April 7, 2020 through December 31, 2020)						
Covered Employer	Covered Employee	Amount and Calculation of Leave	Triggering Conditions	Employer Restrictions	Exemptions	Obligations on Separation of Employment?
An "employer" meets both of the following requirements: (1) is any person, including corporate officers or executives, as defined in Section 18 of the California Labor Code, who directly or indirectly through any other person, including through the services of a temporary	"Employee" means: (1) a person employed by a covered employer who <u>has worked at least two hours within the geographic boundaries of the City of San Jose</u> for such employer, based on the California Labor Code definition of "employee"; and (2) provides " <u>essential</u>		An employee can use paid sick leave for any of the following purposes: (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or is caring for someone who is quarantined or isolated due to	An employer cannot require that an employee find a replacement as a condition of using sick leave.	The Ordinance does not apply to any employer that provides its employees, on the effective date of the Ordinance, with some <u>combination of paid personal leave equal to the paid sick leave time required by the Ordinance.</u> An employer that	An employer is not obligated to provide or pay out any unused COVID-19 Paid Sick Leave upon an employee's separation. An employee cannot carryover unused sick leave between years and will not be paid for unused sick leave. Unused sick leave will not

<p>employment agency, staffing agency or similar entity, employs or exercises control over the wages, hours or working conditions of any Employee and who is either subject to the Business License Tax Chapter 4.76 of the Municipal Code or maintains a facility in the City; and (2) is not required to provide paid sick leave benefits under the federal Emergency Paid Sick Leave Act in the FFCRA. For example, the federal Emergency Paid Sick Leave Act in the FFCRA does not apply to employers with over 500 employees, so the <u>Ordinance applies to employers employing 500 or more employees</u>. The Ordinance also applies to small</p>	<p><u>work” as defined in Santa Clara County’s Public Health Order dated March 16, 2020, as amended on March 31, 2020, for which an employee must leave his or her residence to perform.</u> The Ordinance <u>does not cover employees who can work from home.</u></p>		<p>COVID-19;</p> <p>(2) The employee has been advised to self-quarantine by a health care provider, or is caring for someone who is so advised by a health-care provider;</p> <p>(3) The employee has COVID-19 symptoms and is seeking a diagnosis; or</p> <p>(4) The employee is caring for a minor child because a school or daycare is closed due to COVID-19.</p>		<p>provides some combination of paid personal leave less than the paid sick time required by the Ordinance is <u>only</u> required to comply with the Ordinance to the <u>extent of the deficiency</u>.</p>	<p>be available after expiration of the Ordinance.</p>
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<p>businesses of <u>50 employees or fewer</u>.</p> <p>The Ordinance does not apply to any <u>employer that operates a hospital if such employer provides its employees</u>, within two weeks of April 7, 2020, with some combination of paid personal leave at least <u>equivalent to the paid sick time required by the Ordinance</u>. If such employer provides some combination of paid personal leave less than the paid sick time required by the Ordinance, the employer must comply with the Ordinance to the extent of the deficiency.</p>						
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