

CALIFORNIA PASSES NEW COVID-19 SUPPLEMENTAL PAID SICK LEAVE FOR 2022

California has a new COVID-19 Supplemental Paid Sick Leave, applicable to employers with 26 or more employees:

Under the new supplemental paid leave act, employees are entitled to take up to 40 hours paid sick leave related to COVID-19:

- to quarantine as required by any applicable federal, state or local order, or upon the advice of a health care professional;
- to care for themselves or family members (a spouse, child, parent, grandchild, grandparent, or sibling) related to COVID;
- to care for a child whose school or daycare closed or unavailable due to COVID related reasons; or
- to obtain and/or recover from a vaccine/booster (employers can limit vaccine related time off to 3 days or 24 hours).

Employees are entitled to another bank of 40 hours of paid sick leave if they produce a positive COVID-19 test for themselves or the family member for whom they are providing care. The employer's obligation to provide the sick leave begins on February 19, 2022, but is retroactive to January 1, 2022. It expires September 30, 2022.

Employees who work less than full time are entitled to prorated sick leave. The sick pay is capped at \$511/day or \$5,111 total. On pay check stubs, employers must include a new item line

item for supplemental sick pay, where the number of sick hours used is listed. If they have used none, then the number of used hours must be listed as 0. If an employee requests retroactive pay, then it must be provided by the next pay period, and reflected on the paystub for the pay period the payment was made. The 2022 supplemental sick leave is in addition to the employee's other available sick leave, including under California's Healthy Workplaces, Healthy Families Act (HWHFA), California's pre-COVID paid sick leave. Additionally, because the supplemental COVID-19 sick pay is supplemental to existing benefits, if an employee is excluded from work due to a work related exposure, employers must maintain the employee's earnings pursuant to the CAL/OSHA ETS, without deduction from the new COVID-19 sick banks. Similarly, an employer may not count 2021 COVID-19 Supplemental Paid Sick Leave benefits (which expired September 30, 2021) against this new 2022 COVID supplemental sick leave.

The government will publish a form notice by February 16, 2022, which employers must provide to their employees.

If you have any questions regarding this topic or need any other assistance, please do not hesitate to reach out to us. Donahue Fitzgerald's [Employment Attorneys](#) are committed to providing your business with our best guidance and advice during these changing times.

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