

HR COMPLIANCE BULLETIN



California Guidance on Coronavirus and Employee Leave and Pay

The California Labor Commissioner's Office has issued [coronavirus disease \(COVID-19\) FAQs](#) on laws it enforces. The FAQs address issues such as:

- Leave for employees under quarantine or at risk of exposure;
- Questioning employees about their travel to high-risk areas; and
- The effect of operational shutdowns on exempt and nonexempt employee compensation.

The FAQs also provide information on remote participation in actions filed with the Labor Commissioner's Office.

Action Steps

Employers subject to laws enforced by the Office of the California Labor Commissioner should review the FAQs and ensure their policies are compliant with the Labor Commissioner's Guidance.

In addition, employers should watch for further official guidance and directives in this rapidly developing area.

Highlights on Employee Leave

According to FAQs from the California Labor Commissioner's Office:

- ✓ Employees may use California paid sick leave due to COVID-19 illness.
- ✓ Preventive care under California paid sick leave may include self-quarantine if recommended by civil authorities, and possibly in other situations.
- ✓ Other leave may be available, depending on employer policies.

Highlights on Employee Pay

- ✓ Generally, employees are entitled to compensation for reporting to work and being sent home.
- ✓ An exempt employee who performs any work during a week must be paid a full weekly salary, if the employer failed to make work available.



Coronavirus Disease (COVID-19) – FAQs on Laws Enforced by the California Labor Commissioner’s Office

1. Can an employee use California Paid Sick Leave due to COVID-19 illness?

Yes. If the employee has paid sick leave available, the employer must provide such leave and compensate the employee under [California paid sick leave laws](#).

Paid sick leave can be used for absences due to illness; the diagnosis, care or treatment of an existing health condition; or preventive care for the employee or the employee’s family member.

Preventive care may include self-quarantine as a result of potential exposure to COVID-19 if quarantine is recommended by civil authorities. In addition, there may be other situations where an employee may exercise their right to take paid sick leave, or an employer may allow paid sick leave for preventive care. For example, where there has been exposure to COVID-19 or where the worker has traveled to a high-risk area.

2. If an employee exhausts sick leave, can other paid leave be used?

Yes, if an employee does not qualify to use paid sick leave, or has exhausted sick leave, other leave may be available. If there is a vacation or paid time off policy, an employee may choose to take such leave and be compensated, provided that the terms of the vacation or paid time off policy allows for leave in this circumstance.

3. Can an employer require a worker who is quarantined to exhaust paid sick leave?

The employer cannot require that the worker use paid sick leave; that is the worker’s choice. If the worker decides to use paid sick leave, the employer can require they take a minimum of two hours of paid sick leave per day. The determination of how much paid sick leave will be used per workday is up to the employee.

4. Can an employer require a worker to provide information about recent travel to countries considered to be high-risk for exposure to the coronavirus?

Yes. Employers can request that employees inform them if they are planning or have traveled to [countries considered by the Centers for Disease Control and Prevention to be high-risk areas for exposure to the coronavirus](#). However, employees have a right to medical privacy, so the employer cannot inquire into areas of medical privacy.

5. Is an employee entitled to compensation for reporting to work and being sent home?

Yes. Generally, if an employee reports to their regularly scheduled shift but is required to work fewer hours or is sent home, the employee must be compensated for at least two hours or no more than four hours of reporting time pay.

For example, a worker who reports to work for an eight-hour shift and only works for one hour must receive four hours of pay, one for the hour worked and three as reporting time pay so that the worker receives pay for at least half of the expected eight-hour shift. An exception to reporting time pay is where operations cannot commence or continue when recommended by civil authorities.

[Additional information on reporting time pay](#) is posted online.



6. If an employee is exempt, are they entitled to a full week's salary for work interruptions due to a shutdown of operations?

Federal regulations require that an exempt employee (paid at least the minimum required salary) who performs any work during a week must be paid their full weekly salary, if they do not work the full week because the employer failed to make work available.

An exempt employee who performs no work at all during a week may have their weekly salary reduced.

Deductions from salary for absences of less than a full day for personal reasons or for sickness are not permitted. If an exempt employee works any portion of a day, there can be no deduction from salary for a partial day absence for personal or medical reasons.

Federal regulations allow partial-day deductions from an employee's sick leave bank so that the employee is paid for their sick time by using their accrued sick leave. If an exempt employee has not yet accrued any sick leave or has exhausted all of their sick leave balance, there can be no salary deduction for a partial day absence.

Deductions from salary may also be made if the exempt employee is absent from work for a full day or more for personal reasons other than sickness and accident, so long as work was available for the employee, had they chosen to work.

7. What protections does an employee have if they suffer retaliation for using their paid sick leave?

The Labor Commissioner's Office [enforces several laws](#) that protect workers from retaliation if they suffer adverse action for exercising their labor rights, such as using paid sick leave. Additional information on how to file a retaliation or discrimination complaint is posted online.

Given the evolving nature of this unprecedented health emergency, if an employee chooses not to use available paid sick leave, or has no other paid leave available, employees and employers should discuss what unpaid leave options may be provided.

8. If I am a party in an action filed with the Labor Commissioner's Office, can I seek an accommodation to participate remotely due to the coronavirus?

Yes. Requests to participate remotely should be emailed to the district office in which the claim has been filed. These requests will be evaluated on a case-by-case basis. A [full listing](#) of Labor Commissioner's Office locations, including email addresses, is posted online.

Source: [California Labor Commissioner's Office](#)