



LOS ANGELES UNIFIED SCHOOL DISTRICT POLICY BULLETIN

TITLE: 2021 COVID-19 Supplemental Paid Sick Leave Act Policy

ROUTING
All Locations

NUMBER: BUL-110108.0

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PURPOSE: The purpose of this Bulletin is to provide District employees with information and guidance concerning the 2021 COVID-19 Supplemental Paid Sick Leave Act provisions under California Labor Code section 248.2.

MAJOR CHANGES: This is a new bulletin.

BACKGROUND: Senate Bill No. 95 (“SB-95”), also known as the 2021 COVID-19 Supplemental Paid Sick Leave Act (“2021 COVID-19 SPSL”) was signed into law by the Governor of the state of California on March 19, 2021. The 2021 COVID-19 SPSL is retroactive to January 1, 2021, and expires on September 30, 2021. The 2021 COVID-19 SPSL provides covered employees who are unable to work or telework, for one of the specified reasons provided by the statute, the ability to utilize supplemental paid sick leave (“SPSL benefits”).

The District is committed to compliance with the 2021 COVID-19 Supplemental Paid Sick Leave Act under California Labor Code section 248.2.

GUIDELINES:

I. Covered Employee
A covered employee includes all District employees working full-time or part-time including those who did not previously earn illness time or personal necessity, substitutes, professional experts, return retirees, paid interns, paid student workers, and temporary workers who are unable to work or telework for one or more of the reasons specified in Section II Reasons for Leave (A) through (G) of this Bulletin.

II. Reasons for Leave
The District shall provide SPSL benefits under the 2021 COVID-19 SPSL to each covered employee if that covered employee is unable to work or telework for any of the following reasons:

- A. The covered employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidelines of:
- i. the State Department of Public Health,
 - ii. the federal Centers for Disease Control and Prevention, and/or
 - iii. a local health officer who has jurisdiction over the workplace (District Medical Director).

If the employee is subject to more than one of the foregoing, the employee shall be permitted to use SPSL benefits for the minimum quarantine or isolation period under the order or guidelines that provides for the longest such minimum period;



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- B. The covered employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- C. The covered employee is attending an appointment to receive a vaccine for protection against contracting COVID-19;
- D. The covered employee is experiencing symptoms related to a COVID-19 vaccine that prevent the employee from being able to work or telework;
- E. The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- F. The covered employee is caring for a family member (See Section IV Related Definitions of this Bulletin for more information.) who:
 - i. is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidelines of:
 - a. the State Department of Public Health,
 - b. the federal Centers for Disease Control and Prevention, and/or
 - c. a local health officer who has jurisdiction over the workplace; or
 - ii. has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; and/or
- G. The covered employee is caring for a child (See Section IV Related Definitions of this Bulletin for more information.) whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises.

A covered employee's request to use available SPSL benefits for a prescribed purpose, as outlined in this section of the bulletin, cannot be denied and must be made immediately available for use.

III. **Duration of Leave Entitlement**

A covered employee may determine how many SPSL benefit hours to use up to the total number of hours to which the covered employee is entitled for any one or more reasons specified in Section II Reasons for Leave (A) through (G) of this Bulletin. The maximum SPSL benefit entitlement for covered employees:

- A. *Full-Time Employees*: Eighty (80) hours for a covered employee.
- B. *Part-Time Employees*: Equivalent to the total number of hours a covered employee is normally scheduled to work over a period of two (2) workweeks.
- C. *Variable Work Schedule Employees*: Equivalent to fourteen (14) times the average number of hours worked each day based on a defined period:
 - i. *Employed More Than Six (6) Months*: The six (6) month period immediately preceding the pay period prior to the SPSL benefits usage date.
 - ii. *Employed Less Than Six (6) Months*: The number of calendar days immediately preceding the pay period prior to the SPSL benefits usage date.

In no instances, regardless of actual hours worked or assigned default work schedule(s), is a covered employee entitled to more than eighty (80) hours of SPSL benefits effective January 1, 2021, and expiring on September 30, 2021.

This policy shall remain in effect through September 30, 2021, except that a covered employee taking leave (absence) using SPSL benefits on September 30, 2021, the date of the expiration of the 2021 COVID-19 SPSL under California Labor Code section 248.2, shall be permitted to finish taking leave (absence) through the earliest of return to work or exhaustion of available SPSL benefits for which the covered employee would have been entitled should the 2021 COVID-19 SPSL not expired.



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IV. Related Definitions

- A. **Child:** Biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands *in loco parentis*. This definition of child is applicable regardless of age or dependency status.
- B. **Continuous Leave:** Leave taken in single period or block of time due to any one or more reasons specified in Section II Reasons for Leave (A) through (G) of this Bulletin.
- C. **Covered Employee:** The 2021 COVID-19 SPSL defines a covered employee as any employee who is unable to work or telework for one or more of the reasons the statute lists.
- D. **COVID-19 Supplemental Paid Sick Leave:** SPSL benefits provided pursuant to the COVID-19 Supplemental Paid Sick Leave (SPSL) Act under California Labor Code section 248.2.
- E. **Domestic Partner:** A registered domestic partner within the meaning of the California Family code sections 297 through 297.5.
- F. **Family Member:** Means any of the following: Child, Parent, Spouse, Domestic Partner, Grandparent, Grandchild, Sibling.
- G. **Full-Time Employee:** Employees identified as full-time salaried or full-time hourly are considered a full-time employee. This definition does not include substitutes or return retirees.
- H. **Grandchild:** Child of the employee's child.
- I. **Grandparent:** Parent of the employee's parent.
- J. **Health Care Provider:** A licensed physician, surgeon, osteopathic physician or surgeon, podiatrist, dentist, clinical psychologist, optometrist, nurse practitioner, nurse midwife, clinical social worker, physician assistant, or a Christian Science Practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts.
- K. **In loco parentis:** A type of relationship in which a person has put themselves in the situation of a parent by assuming and discharging the obligations of a parent to a minor child, including persons with day-to-day responsibilities to care for or financially support a minor child.
- L. **Intermittent Leave:** Leave taken in separate periods or blocks of time due to any one or more reasons specified under Section II Reason for Leave (A) through (G) of this Bulletin, rather than one continuous period of time.
- M. **Parent:** Biological, adoptive, foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood *in loco parentis* to the employee when the employee was a minor child. This definition of parent includes parent-in-law.
- N. **Part-Time Employee:** Employees who are not identified as full-time salaried or full-time hourly are considered a part-time employee. This definition does not include substitutes or return retirees.
- O. **Sibling:** A person related to another person by blood, adoption, or affinity through a common legal or biological parent.
- P. **Spouse:** Husband or wife. This definition includes an individual in a same-sex or common law marriage entered into in a State that recognizes such marriages. The state of California does not recognize common law marriage.
- Q. **Variable Work Schedule Employee:** Regardless of scheduled or actual hours worked per day or week, employees categorized as substitutes and return retirees are considered a variable work schedule employee.



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R. **Variable Work Schedule Entitlement:** The average number of hours worked is calculated by determining the sum of the hours worked in the defined period. The sum is then divided by the number of calendar days in the defined period to establish the quotient. The quotient is then multiplied by fourteen (14) to determine the product. The product is the maximum SPSL benefit entitlement for a variable work schedule employee.

V. **Roles & Responsibilities**

Covered employee role and responsibilities:

- A. A covered employee must make an oral or written request to use SPSL benefits for purposes consistent with the 2021 COVID-19 SPSL.
- B. If the need for the use of SPSL benefits is foreseeable, a covered employee must provide reasonable advance notice.
- C. If the need for the use of SPSL benefits is unforeseeable, a covered employee must give notice as soon as practicable.
- D. A covered employee may take SPSL benefits as continuous leave or intermittent leave (See Section IV Related Definitions of this Bulletin for more information) for any one or more reasons specified in Section II Reasons for Leave (A) through (G) of this Bulletin.
- E. A covered employee may determine how many SPSL benefit hours to use up to the total number of hours to which the covered employee is entitled. (See Section III Duration of Leave Entitlement of this Bulletin for more information.)

Site Administrator role and responsibilities:

- A. When a covered employee makes an oral or written request to use available SPSL benefits for a prescribed purpose, as outlined in Section II Reasons for Leave (A) through (G) of this Bulletin, the site administrator cannot deny the request and must immediately make SPSL benefits available for use.
- B. After submission of an oral or written request to use SPSL benefits, a site administrator or their designee may ask an employee to provide documentation confirming the request is consistent with a prescribed purpose as specified in Section II Reasons for Leave (A) through (G) of this Bulletin, if necessary.

VI. **Compensation**

SPSL benefits are paid at 100% of a covered employee's regular rate of pay and calculated in the same manner as the District calculates wages for other forms of paid leave time.

VII. **Retroactive Designation**

The requirement to provide SPSL benefits applies retroactively to January 1, 2021 in order to protect the economic well-being of employees who took leave for reasons specified in Section II Reasons for Leave (A) through (G) of this Bulletin, beginning on or after January 1, 2021, after the Families First Coronavirus Response Act (FFCRA) expired and before the effective date of this Bulletin.

Beginning on January 1, 2021, if the employee's own illness, personal necessity, Kin Care, and/or vacation time was used for any such leave (absence) taken for reasons specified in Section II Reasons for Leave (A) through (G) of this Bulletin, a covered employee is entitled to a retroactive application of SPSL benefits. Upon an oral or



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written request made by the covered employee, the District shall provide the covered employee with a retroactive designation of the employee's previously utilized illness, personal necessity, Kin Care, and/or vacation time, resulting in a credit to the employee's bank of benefitted time.

For any such leave (absence) taken for reasons specified in Section II Reasons for Leave (A) through (G) of this Bulletin, if the District did not compensate a covered employee entitled to SPSL benefits in an amount equal to or greater than the amount of compensation specified in Section V Compensation of this Bulletin, then upon the oral or written request of the covered employee, the District shall provide the covered employee with a retroactive designation that provides such compensation.

For any such retroactive designation, the number of hours of leave (absence) corresponding to any time reporting adjustment shall be credited towards the covered employee's maximum SPSL benefit entitlement.

VIII. Integration with Other Benefits

The total number of SPSL benefit hours to which a covered employee is entitled shall be in addition to any paid sick leave that may be available to the employee pursuant to the Healthy Workplaces, Healthy Families Act of 2014 as set forth in policy BUL-6529 Legally Mandated Paid Sick Leave and California Labor Code section 246.

The District may not require a covered employee to use any other paid or unpaid leave, full-pay and half-pay illness, or vacation time before the employee uses SPSL benefits under the 2021 COVID-19 SPSL. However, the District may require a covered employee to exhaust their SPSL benefits under the 2021 COVID-19 SPSL prior to paying employees under the Cal/OSHA COVID-19 Emergency Temporary Standard ("ETS").

IX. Maintaining Documentation

An oral or written request for SPSL benefits must be documented on the "Certification/Request of Absence for 2021 COVID-19 SPSL, SPSL Benefits Form" (Certification of Absence).

The District requires that records substantiating the time reported to the Payroll Administration Branch for payments must be kept on file and retained at the location for a period of five years for audit purposes.

In the event supporting medical documentation is provided to an administrator or their designee, employee medical confidentiality must be maintained at all times.

X. Posting Requirement

Every District worksite must post in an area frequented by employees the "2021 COVID-19 SPSL" poster. For employees who do not frequent their assigned physical worksite, the notice requirement may be satisfied by disseminating notice through electronic means, such as by District email.

See the Related Resources section of this Bulletin for information on where to obtain the 2021 COVID-19 SPSL poster.



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XI. 2021 COVID-19 SPSL Protected Time Off

Time taken off work under the 2021 COVID-19 SPSL is job protected under California Labor Code section 248.2. A covered employee's request to use available SPSL benefits for a prescribed purpose, as outlined in Section II Reasons for Leave in this Bulletin, cannot be denied and must be made immediately available for use.

A covered employee may freely exercise their right to use SPSL benefits under the 2021 COVID-19 SPSL and not be disciplined for doing so; however, absences related to the use of SPSL benefits will not affect pending disciplinary proceedings or prevent discipline from being issued that is based upon legitimate reasons related to work performance and/or conduct. Employees with excessive absenteeism beyond the job protected absences are still subject to discipline, up to and including dismissal.

AUTHORITY:

This is a policy of the Los Angeles Unified School District. This policy is established in accordance with the 2021 COVID-19 SPSL under California Labor Code section 248.2.

RELATED RESOURCES:

Legally Mandated Paid Sick Leave, BUL-6529, Division of Risk Management and Insurance Services.

Mandatory Posting of Regulatory Notices Relating to Federal and State Employment Laws, BUL-4991, Division of Risk Management and Insurance Services.

2021 COVID-19 SPSL poster:

https://achieve.lausd.net/cms/lib/CA01000043/Centricity/domain/133/integrated_disability_management/2021-COVID-19-Supplemental-Paid-Sick-Leave_POSTER.pdf

New Certification of Absence Forms, BUL-6307, Office of the Superintendent. Payroll Administrative Services "Certification/Request of Absence for 2021 COVID-19 SPSL, SPSL Benefits Form" (Certification of Absence Form No. SPSL.01)
<https://achieve.lausd.net/Page/1083>

Los Angeles Unified School District Protected Leaves & Absences website:
<http://fmila.lausd.net>

California Labor Code Division 2, Part 1, Chapter 1, Article 1.5, section 248.2:
https://leginfo.ca.gov/faces/codes_displaySection.xhtml?SectionNum=248.2&lawCode=LAB

Cal/OSHA COVID-19 Emergency Temporary Standard (ETS)

ASSISTANCE:

For assistance or further information, contact the Absence Management section in the Integrated Disability Management (IDM) branch of the Division of Risk Management & Insurance Services at 213-241-3954 or visit the Protected Leaves & Absences website at <http://fmila.lausd.net>