

COVID-19 Leaves Chart

Federal Families First Coronavirus Response Act: Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act (HR 6201)

*Check your collective bargaining agreements for additional, expanded, or modified leave entitlements.
Current as of April 10, 2020.*

	1) Employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19	2) Employee has been advised by a health care provider to self-quarantine related to COVID-19	3) Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis	4) Employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2)	5) Employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19	6) Employee is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury
A <u>Emergency Paid Sick Leave Act/HR 6201¹</u>	Up to 80 work hours (two work weeks) of employer-paid sick leave for full-time employees not to exceed \$511 per day and \$5,110 in the aggregate. Part-time employees get number of hours of paid leave equal to the average hours worked over a two week period.			Up to 80 work hours (two work weeks) of employer-paid sick leave at 2/3 pay amount for full-time employees not to exceed \$200 per day and \$2,000 in the aggregate. Part-time employees get number of hours of paid leave equal to the average hours worked over a two week period. Only applies to (5) if child is under 18 or disabled.		
B <u>Expanded FMLA/HR 6201:</u>					Up to 12 workweeks of leave partially paid. First ten work days unpaid unless substituted with other paid leave including	

¹ Seems to be a new bank of leave that can run before regular sick leave, at employee’s election. No requirement for length of employment before use; cannot require employee to use other paid leave before use of Emergency Paid Sick Leave; expires Dec. 31, 2020. Applies to public agency employers with one or more employees.

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					Emergency Paid Sick Leave (row A, above). Only applies if child is under 18 or disabled. 2/3 of employee’s average monthly earnings for remaining 10 work weeks not to exceed \$200 per day and \$10,000 in the aggregate. ²	
C Regular Unpaid FMLA: Unpaid FMLA runs concurrently with sick leave (29 U.S.C. § 2601 et seq., Gov. Code, § 12945.1 et seq.)	Regular unpaid FMLA only available if: (1) employee suffers from a qualifying “serious health condition” or has to care for a qualifying family member; (2) satisfies employment requirements under FMLA (1,250 hours over 12 months); and (3) has not exhausted annual FMLA leave entitlement. Runs concurrently with paid sick/differential leave, so may be paid if employee has sick/differential leave available.					

² FMLA temporarily expanded by HR 6201 – “Emergency Family and Medical Leave Expansion Act”; must have been employee for at least 30 calendar days (1,250 hour requirement waived); expires Dec. 31, 2020. Applies to private employers with 500 or fewer employees and public agency employers regardless of size.

Available for Use
Leave May Apply
Leave Not Available

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D <u>Sick Leave Entitlement:</u> One day per month for full time employees (Ed. Code, §§ 44978, 45191)	Available if employee is unable to work (including remote work).			Up to ½ of accrued and available sick leave available for use under Kin Care, up to maximum total of six days for full-time 12 month classified employees. (See row F.)	May be available first two weeks of expanded FMLA to remain 100% paid for first two weeks, if liberally construing sick leave. (See row B.)	Available if employee is unable to work (including remote work).
E <u>Accumulated Sick Leave:</u> Unused sick leave carryover (Ed. Code, §§ 44978, 45191)	Available if employee is unable to work (including remote work).			Up to ½ of accrued and available sick leave available for use under Kin Care, up to maximum total of six days for full-time 12 month classified employees. (See row F.)		Available if employee is unable to work (including remote work),
F <u>Kin Care:</u> Care for employee’s family member Not a new bank; pulled from sick leave. (Lab. Code §§ 233, 246.5)				Amount available for use is one-half of “accrued and available sick leave.” For example, a full time 12 month classified employee would be entitled to you up to maximum total of six days of accrued and available sick leave. (Lab. Code § 233.) (See rows D and E.)		

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G <u>Differential Leave</u> : Extended illness leave beyond current and accumulated sick leave (Ed. Code, §§ 44977, 45196)	Only available if employee is ill or injured and unable to work, whether in person or remotely. One 5-month period per illness or accident. (Or classified may have total 100 Working Days for sick leave.) <u>Certificated</u> starts after exhaustion of sick leave; <u>Classified</u> runs concurrently with sick leave.					Only available if employee is ill or injured and unable to work, whether in person or remotely. One 5-month period per illness or accident. (Or classified may have total 100 Working Days for sick leave.) <u>Certificated</u> starts after exhaustion of sick leave; <u>Classified</u> runs concurrently with sick leave.
H <u>Quarantine Leave</u> : If negotiated or Board grants. Can be paid or unpaid. (Ed. Code, §§ 44964, 45199)	If leave based on quarantine					
I <u>Leave as ADA Reasonable Accommodation</u> (42 U.S.C. §§ 12101 et seq.,	Not automatic; must conduct interactive process (may be done telephonically or via email)					Not automatic; must conduct interactive process (may be done telephonically or via email)

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29 C.F.R. §§ 1630 et seq.)						
J <u>Personal Necessity:</u> All days of sick leave may be used and up to 7 days of accumulated sick leave; additional upon negotiation (Ed. Code §§ 44981, 45207)						
K <u>Industrial Accident/Illness:</u> 60 days of leave (Ed. Code §§ 44984, 45192)	Available if employee establishes COVID-19 was contracted while at work (w/ doctor's note).					Available if employee establishes illness was contracted while at work (w/ doctor's note).

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L <u>Child-Related Activities Leave:</u> Comes from existing leave banks to be paid (Labor Code § 230.8)				If child is the individual under quarantine.	Up to 40 hours of vacation, personal leave, or compensatory time. (See rows J, M, and N.) Eight hour limit per month.	
M <u>Vacation:</u> Calculated pursuant to CBA and Ed. Code. Renews annually. (for classified only; Ed. Code, § 45197)						
N <u>Compensatory Time Off:</u> In lieu of overtime (negotiated for certificated; Ed.						

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Code, §§ 45128, 45129)						
<u>O Discretionary Leave</u> : Within Board's discretion (Ed. Code, §§ 44962, 44963, 44964, 45190)						

Disclaimer: As the information contained herein is necessarily general, its application to a particular set of facts and circumstances may vary. For this reason, this document does not constitute legal advice. We recommend that you consult with your counsel prior to acting on the information contained herein.

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