

COVID-19 SUPPLEMENTAL PAID SICK LEAVE (SPSL) 2022 (SB 114)

FAQs

As of March 3, 2022

The purpose of this FAQ is to provide campuses with additional guidance regarding 2022 COVID-19 Supplemental Paid Sick Leave (SPSL) for all employees. See [HR/Leaves 2022-02](#) for details of the new COVID sick leave. Campuses may also refer to the Department of Industrial Relations recently posted [SPSL FAQs](#).

Overview

Signed by the Governor on February 9, 2022, SB 114 provides for new supplemental paid sick leave up to **80 hours (10 days)** and is available effective January 1, 2022, through September 30, 2022, for employees unable to work due to COVID-19-related reasons.

Pursuant to [HR 2022-01](#), CSU has extended the program's deadline to December 31, 2022, and eliminated the daily SPSL pay maximums prescribed in SB 114 for non-represented employees.

Represented employees have been offered these same enhancements and meet-and-confer sessions are currently underway with the unions. Until agreements are reached, campuses are instructed to administer the new SPSL program as per the technical letter for non-represented employees and as outlined in SB 114 for represented employees. ***These FAQs represented guidance for both non-represented and represented employees.***

Note: SB 114 allows employers to request documentation for various COVID-19 related reasons. Campuses must apply these requirements consistently for all employees requesting to use SPSL.

Eligibility

1. Should campuses announce SPSL to represented employees even before MOUs are signed by the unions?

Yes. Campuses should inform all employees of the new SPSL program while highlighting that represented employees are currently subject to SB 114 provisions.

2. Which employee groups are covered by SPSL?

Pursuant to SB 114, all employees (employee groups) are eligible for COVID-19 SPSL. **As of the date the FAQs published date (see above)**, only non-represented employees are eligible for the program expansions cited above. Campuses are to follow SB 114 for represented employees.

3. Are any employees excluded from SPSL?

- Work study student employees
- Retired annuitants are only eligible for provisions specifically outlined in SB 114, not the enhancements offered by CSU to non-represented employees or to represented employees through the collective bargaining process as inclusion in such programs is expressly prohibited by CalPERS for retired annuitants.

4. Are special consultants also eligible for SPSL?

Yes, special consultants are considered employees and are eligible under SPSL.

5. To confirm, only non-represented employees have until 12/31/2022 to request SPSL?

Non-represented employees, through policy have until 12/31/2022 to use SPSL. **As of the date these FAQs were published (see above),** MOU's to extend the date from 9/30/2022 to 12/31/2022 for represented employees has not been signed.

Reasons

6. Can an employee qualify for more than one of the “Permissible Use of Leave” reasons?

Yes. Employees are able to qualify for more than one of the reasons. However, only a total of 80 hours are available.

7. How does an employee know if a quarantine or isolation period related to COVID-19 applies to their circumstance?

For general guidance on applicable isolation and quarantine periods, please see [CDPH](#). These are the guidelines that would apply to determine whether and for how long a family member would need to isolate or quarantine.

For guidance on when an employee may be required to isolate or quarantine from the workplace, please see the isolation and quarantine periods in the chart in the following link to [Division of Occupational Safety and Health \(Cal/OSHA\) FAQs on the Emergency Temporary Standards](#).

The guidance may be subject to change. Therefore, it is necessary to determine which isolation and quarantine periods were in effect during any period when leave is or was sought. At the time these FAQs were prepared, generally, all symptomatic individuals must isolate after exposure to COVID-19. If an employee was exposed but has no symptoms and has not tested positive, the quarantine period will depend on vaccination status.

In addition to these isolation and quarantine periods, an employee experiencing symptoms of COVID-19 and seeking a medical diagnosis would be entitled to leave.

8. If an employee requests SPSL for quarantine, can they be denied the leave if they are vaccinated and boosted?

See the [California Department of Public Health](#) and/or the [Department of Industrial Relations CalOSHA FAQs](#) for guidance.

9. If an employee has symptoms but tests negative, are they still able to use the first set of hours?

Yes. The employee may use the first set of hours up until the point the employee tests negative (see qualifying reason e).

10. Is the campus permitted to limit an employee to use 3 days or 24 hours of SPSL for the employee or a qualifying family member receiving a vaccine or vaccine booster and recovery from any related side effects?

Yes. If an employee requests leave to obtain a vaccine or a vaccine booster for themselves or for a qualifying family member and the time for getting the vaccine or vaccine booster combined with the time while the covered employee or qualifying family member is experiencing side effects exceeds three days or 24 hours of leave, the campus must require verification from a health care provider. This means that the campus may limit the leave taken to get a vaccine or a vaccine booster to three days or 24 hours unless the employee provides verification.

Medical verification in this context would likely be a note from a health care provider that the employee or family member continued to have vaccine side effects.

11. Can an employee use more than three days or 24 hours of leave if they or a family member for whom they are providing care receive more than one vaccine or vaccine boosters over the period SB 114 is in effect?

Yes, the limitation applies to **each** vaccine or vaccine booster that the employee or their family member receives. For example, if a full-time employee received a vaccine booster, the employee can use up to three days or 24 hours of leave from the 40 hours of leave that is available for this use. If the covered employee's child then has a vaccine appointment and the covered employee has not used leave from this bank for another allowed use, the employee has 16 hours of leave left that can be used for obtaining the vaccine for the child and for time needed to care for the child if any side effects require such care.

12. Must SPSL be initiated for a reaction to a vaccine/booster within 3 days of the vaccine/booster? Employees sometimes have a "delayed reaction".

No. SB 114 does not require SPSL to be initiated within 3 days of the vaccine/booster.

13. Can an employee out on NDI leave request to use SPSL to get the vaccine/booster for themselves and their family? Can employees use SPSL while on NDI?

Since NDI prevents an employee from being able to work (or telework), this is not a qualifying reason under the SPSL.

14. Is an employee with "long hauler" COVID symptoms be covered under SPSL? Which qualifying reason applies? Would this fall under just one pool of hours or both pools?

No. "Long hauler" symptoms do not qualify for any of the "reasons" provided for in SB 114. The employee does not need to quarantine or isolate nor seek a COVID-19 diagnosis. Other job-protected leave or other CSU benefits (NDI, etc.) may be used in this situation.

15. SPSL and SB 114 state "Employee is caring for a child whose school or place of care is closed or otherwise unavailable for reasons related to COVID-19 on the premises." How do we interpret 'On the premises'?

For CSU purposes, we are interpreting this language the same way we administered Coronavirus Paid Administrative Leave (CPAL) and Families First Coronavirus Response Act (FFCRA). When an employee is unable to work due to a COVID-19-related school or daycare closure and the employee is required to be at home with a child(ren) or dependent(s), and it is not operationally feasible for the

employee to work remotely or in conjunction with the childcare commitment. The employee must discuss the limitations of working remotely with the appropriate administrator.

This is an expansion from the intent of SB 114.

16. Can an employee use SPSL to take a child to school or daycare when it is during the work hours?

No. The reasons under SPSL/SB 114 do not allow for time to be used to transport children to school or daycare.

How Time Can Be Used

17. If an employee uses only eight of the additional 40 hours (reason h), can they still utilize the remaining 32 in the future?

Only if they or a family member in which they are caring for becomes ill with COVID-19 and tests positive. The employee must agree to take a diagnostic test on or after day 5 in order to access the remainder of the additional SPSL hours for themselves and submit a positive COVID-19 test for their family member.

18. If an employee takes a home test prior to testing positive, what hours can they utilize? What hours can they utilize from the day they test positive?

The home test can be used as the positive test. Up until the home test was taken, the employee may use the first set up 40 hours. At which time the home test was taken, the second set of 40 hours may be used with documentation.

19. Do campuses use the non-positive hours first and then positive hours if additional time is needed? Or if a positive test is on file, start with positive hours and then use non-positive if over 40 hours are needed?

Non positive hours may be used for time before the employee tests positive. After the positive test the employee may use the second set of 40 hours. If the campus requires the employee take a diagnostic test on or after the 5th day, the employee may not receive SPSL beyond the time the test was made available to the employee. Campuses are to waive the requirement to test on or after the 5th day for retroactive SPSL requests.

20. If an employee tests positive on their first day out, would they be able to use all 80 hours of SPSL?

Yes, if proper documentation/testing is provided pursuant to reason h.

Documentation/Proof

21. Are there form(s) campuses can use for the new SPSL program?

Yes. There is one form campuses may use for the expanded SPSL program and one form for SB 114. The forms were provided as attachments to [HR/Leaves 2022-02](#). They also can be found on the [Benefits Insider SharePoint Site](#) (restricted access).

22. Does the SB 114 address specific situations in which a campus may request documentation before approving SPSL?

Yes, in several situations.

First, SB 114 permits the employer to seek documentation before paying an employee if an employee is using the SPSL that is only available after a positive test.

For Employees

Employees should submit a COVID-19 Supplemental Paid Sick Leave Form to self-certify they tested positive for COVID-19 and provide the date they tested positive if they are seeking SPSL for reason h. Also, employees must agree to take a diagnostic COVID-19 test on or after the 5th day, if requested by the campus. If the employee fails to comply, then the campus may deny SPSL after the date the diagnostic test is made available.

For a Family Member

Employees should submit a COVID-19 Supplemental Paid Sick Leave Form and must submit documentation if they are seeking SPSL for reason h if a **family member** tests positive for COVID-19. If the employee fails to provide the result of the positive test, then the campus may deny SPSL for the second set of 40 hours (reason h) for the family member.

Second, when an employee uses more than three days or 24 hours for a single vaccine appointment and recovery from any related side effects, SB 114 allows an employer to seek medical certification that the employee requires more time to recover from those side effects. Medical certification in this context would likely be a note from a health care provider that the employee or family member continued to have vaccine side effects.

23. What type of documentation can be requested to substantiate a positive COVID test?

Documentation to substantiate a positive COVID-19 test could include, among other things, a medical record of the test result, an e-mail or text from the testing company with the results, a picture of the test result, self-attestation via a text or e-mail from the employee to the campus stating that they or a family member tested positive for COVID-19 or completion of the Request for COVID-19 SPSL Form.

24. Can a campus require documentation if an employee is requesting retroactive pay for SPSL that is available only if the employee or qualifying family member was positive for COVID-19?

Pursuant to [HR/Leaves 2022-02](#), campuses should request that employees submit a COVID-19 Supplemental Paid Sick Leave Form to self-certify they had COVID-19 and provide the date they tested positive. Employees must submit documentation if they are seeking SPSL for reason h if a family member tests positive for COVID-19, upon request.

25. If an employee used sick leave to stay home in January after a positive home test and didn't report it to campus/follow the campus' process for reporting being COVID positive, can we deny their request to use SPSL retroactively to recoup their sick time used?

It depends. Employees must isolate a specific amount of time pursuant to CDPH guidelines. If the employee did not adhere to the timeline and returned to work too early, the campus does not have to approve the absence as SPSL under reason h. The employee could be eligible for reason e.

26. Is a particular type of COVID-19 diagnostic test required in order to qualify for leave based on having a positive test result?

No. An employee may take an over-the-counter rapid test (Antigen) or a test that is scheduled at a testing facility. The law does not specify type of test and does not place conditions on how the test is administered in order to qualify for leave.

27. What if an employee refuses to comply with the campus' request for documentation of the COVID-19 test for themselves or a family member in which they are caring for?

If the employee fails to provide documentation (See #23 for documentation options), then the campus may deny SPSL under reason h.

28. Can the campus require an employee get a COVID-19 test pursuant to SB 114?

Yes, in certain circumstances. SB 114 provides that an employer may require a test after 5 days have passed since the employee tested positive for COVID-19. If the employee fails to take such a test required by the employer, the employer may deny pay for any leave taken after the time the employer provides the test. Any test required by the employer must be made available by the employer and at no cost to the employee. Making a test available means ensuring the employee has a rapid test in hand or securing an appointment at a testing facility for the employee. A test has not been made available by the employer if it has not been received by the employee.

29. If an employee is required to retest 5 days after their positive test and are still positive, do they need to retest again after that? If so, after how many days is the next test required? What deems them "able to return?"

See guidance provided by the [CDPH](#). As of the date these FAQs were published, employees do not need a negative test if returning after 10 days.

30. An employee requests SPSL for 5 days due to a reaction to the vaccine but they did not seek medical treatment, so they cannot provide medical documentation. Will SPSL cover the entire 5 days or only through day 3? What if the absence occurred in January/February prior to the SPSL program?

An employee may only use 3 days for a vaccine or booster unless a note from a health care provider is submitted as documentation. If an employee is requesting SPSL retroactively for this purpose, but did not seek medical treatment, the campus may waive the requirement for a note from a health care provider to use the full five days.

31. How does SPSL interact with Exclusion Pay?

Pursuant to [HR/Leaves 2021-01](#), employees eligible for Exclusion pay may not be required to use SPSL before Exclusion Pay is granted.