



Los Angeles City Council Requires Supplemental Paid Sick Leave for Large Employers

Note: This article was posted on March 31, 2020 at 2 pm PDT. Updated on April 13, 2020 at 1 pm. Because the COVID-19 situation is rapidly changing as the federal government and State of California continue to fight this pandemic, individuals and businesses should consult with counsel for the latest developments and updated guidance on this topic.

On March 27, 2020, the Los Angeles City Council (“City Council”) passed an ordinance requiring employers with more than 500 employees nationally to provide supplemental sick leave to employees during the COVID-19 pandemic (the “Ordinance”). After lengthy debate, the City Council sought to fill what it perceived was a gap in the Families First Coronavirus Response Act (“FFCRA” click [here](#) for more on the FFCRA), by requiring that 10 days (80 hours) of supplemental paid sick leave be provided to employees who work for larger employers.

Specifically, the Ordinance requires supplemental paid sick leave in addition to the paid sick leave already required for employees in the City of Los Angeles. Employees must request use of the supplemental paid sick leave, orally or in writing. The Ordinance only applies to employers with more than 500 employees nationally, but exempts employees subject to a collective bargaining agreement. Employers of health care providers and first responders are exempted from the Ordinance as well.

The Ordinance provides for different amounts of sick leave depending on the number of hours worked when used for qualifying reasons related to COVID-19. Full-time employees who work at least 40 hours per week will be entitled to the maximum of 80 hours of supplemental paid sick leave. The rate of pay is calculated by employee’s two-week average pay between February 3, 2020 and March 4, 2020. Employees who work less than 40 hours a week shall be entitled to supplemental paid sick leave in an amount no greater than the part-time employee’s two-week average pay during that same period. As with the federal FFCRA, supplemental paid sick leave is capped at \$511 per day and \$5,110 in the aggregate. In addition, employers are entitled to an offset for every hour of paid leave provided for the qualifying reasons on or after March 4, 2020, excluding any previously accrued leave hours (i.e., offset is for additional pandemic-related paid time off over and above what the employee normally receives).

For example, a full-time employee who earned an average of \$1,000 per week (\$25 per hour x 40 hours per week) would be entitled to a total of \$2,000, if the employee used all 80 hours of his or her supplemental paid sick leave. A part-time employee who earned an average of \$500 per week (\$25 per hour x 20 hours per week), by contrast, would be entitled to 40 hours of supplemental paid sick leave for a total of \$1,000.

Supplemental paid sick leave must be granted upon an employee's request for any one of the below qualifying reasons. Indeed, leave is only available in these four situations.

The employee takes time off because:

1. a public health official or healthcare provider requires or recommends that the employee isolate or self-quarantine to prevent the spread of COVID-19;
2. the employee is at least 65 years old or has a health condition such as heart disease, asthma, lung disease, diabetes, kidney disease, or weakened immune system;
3. the employee needs to care for a family member who is not sick but for whom public health officials or healthcare providers have required or recommended isolation or self-quarantine;
or
4. the Employee needs to provide care for a family member whose senior care provider or whose school or childcare provider (for a child under the age of 18) temporarily ceases operations in response to a public health official or other public official's recommendation.

The Ordinance has a few other important provisions. It does not allow an employer to require a doctor's note or other documentation to request or use the supplemental paid sick leave. Any retaliation or other discrimination for requesting or using supplemental paid leave (e.g., discharge or reduction in compensation) is prohibited. The Ordinance will stay in effect through December 31, 2020, unless extended by the City Council. The requirements of the Ordinance went into effect on April 10, 2020 (click [here](#) to see a copy of the Ordinance).

As for what's next, the City Council is also considering ordinances to provide recall rights to employees laid off during the pandemic and additional protections if a business changes ownership during the pandemic. These ordinances are currently tabled, but are expected to be returned to in an upcoming meeting.

If you have questions regarding this article, contact The Maloney Firm at 310.540.1505.