EMERGENCY PAID SICK LEAVE ACT

It is the policy of the City of San Jose (“City”) to comply with the provisions of the Federal Emergency Paid Sick Leave Act. Rights and obligations which are not specifically addressed in this policy are incorporated in by reference.

AUTHORITIES

Emergency Paid Sick Leave Act

This Act is effective April 1, 2020 and ends on December 31, 2020.

Definitions

Public Health Emergency: The term “public health emergency” means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

Child Care Provider: The term “child care provider” means a provider who receives compensation for providing child care services on a regular basis. This term includes a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under State law. Under the Families First Coronavirus Response Act, the eligible child care provider need not be compensated or licensed if he or she is a family member or friend, such as a neighbor, who regularly cares for an employee’s child.

School: The term “school” means an elementary school or secondary school as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

POLICY

A. Eligibility

Paid sick time under this Act shall be available for immediate use by the employee, regardless of how long the employee has been employed by the City of San Jose.

B. Amount of Emergency Paid Sick Leave

An employee shall be entitled to paid sick leave* as follows:

1. For full-time employees, eighty (80) hours
2. For part-time employees, a number of hours equal to the number of hours that such employee works, on average, over a two-week period.

*Paid sick leave shall not carry over from one year to the next.
C. Emergency Paid Sick Time Requirement

The City of San Jose shall provide to each employee paid sick time to the extent that an employee is unable to work (or work remotely) due to a need for leave because:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
5. The employee has been caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions;
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

The City of San Jose may elect to exclude an emergency responder from the application of the provisions in the Emergency Paid Sick Leave Act and each application from an emergency responder will be evaluated on a case by case basis. Pursuant to the Act, an emergency responder is:

[A]nyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual whom the highest official of a State or territory, including the District of Columbia, determines is an emergency responder necessary for that State’s or territory’s or the District of Columbia’s response to COVID-19.

D. Calculation of Pay For Emergency Paid Sick Leave

Employees are entitled to Emergency Paid Sick Leave at their regular rate of pay if they are unable to work or telework for the following reasons:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

Emergency Paid Sick Leave for reasons 1, 2, and 3 above is subject to a cap of $511 per day and $5,110 in the aggregate over the entire two-week Emergency Paid Sick Leave period. Employees may supplement their pay with their accrued leaves to achieve 100% of their regular rate of pay.*

Employees are entitled to Emergency Paid Sick Leave at two-thirds of the employee’s regular rate of pay if they are unable to work or telework because:

4. The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or been advised by a health care provider to self-quarantine due to concerns related to COVID-19 order.

5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.

6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Emergency Paid Sick Leave for reasons 4, 5, and 6 above is subject to a cap of $200 per day and $2,000 in the aggregate over the entire two-week Emergency Paid Sick Leave period. Employees may supplement the two-thirds pay with their accrued leaves to achieve 100% of their regular rate of pay.*

*City’s Additional Benefit:
While the Emergency Paid Sick Leave Act allows employees to supplement their partial pay provided under the Act from accrued leave balances, the City will provide the extra benefit of administrative leave at each employee’s full pay for their 14-days of eligibility for Emergency Paid Sick Leave. In other words, employees will not need to use their accrued leave balances to make them whole during their 14-day eligibility for Emergency Sick Leave. The first eighty hours (or appropriate proration for part-time employees) of administrative leave coded on or after April 5, 2020, for a COVID-related reason will be regarded as Emergency Paid Sick Leave. Additional information regarding timekeeping is available in the Frequently Asked Questions for EPSLA and EFMLA document.

In the event that an individual employee receives more administrative leave than he or she is entitled under the City Manager’s grant of administrative leave, a timecard adjustment will be processed and any available accrued leave will be substituted, as appropriate and depending on the reason for the leave.

E. Intermittent Leave

An employee may take paid sick leave intermittently only if the City and employee agree. The City will review requests and determine the feasibility of each request based on the reason for the leave and the employee’s job duties/assignment.
F. **Employee Notice and Documentation of Leave**

If the need for leave for under this Policy is foreseeable, the employee shall provide the City of San Jose with notice of leave as is practicable. Notice may be made in writing or made verbally to the Office of Employee Relations. If employees give notice verbally, employees are still expected to complete an [Emergency Paid Sick Leave Application](#) that shall be returned to the Office of Employee Relations.

G. **Health Benefits and Insurance Premiums**

While an employee is on Emergency Paid Sick Leave, the City will continue the employee’s health benefits during the leave period at the same level and under the same conditions as if the employee continued to work. The employee is responsible for his or her portion of health benefits and insurance premiums.

**PROCEDURES**

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<thead>
<tr>
<th>Role</th>
<th>Action</th>
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<tbody>
<tr>
<td>Employee</td>
<td>Complete the <a href="#">Emergency Paid Sick Leave Application</a>.</td>
</tr>
<tr>
<td></td>
<td>Due to the County’s shelter in place order and corresponding closure of City facilities, it is preferred that employees return the application by email to the Office of Employee Relations at <a href="mailto:employee.relations@sanjoseca.gov">employee.relations@sanjoseca.gov</a>. Electronic signatures as indicated by /s/ plus the employee’s first and last name will be accepted.</td>
</tr>
<tr>
<td>Office of Employee Relations</td>
<td>Determine eligibility for leave.</td>
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<td></td>
<td>Notify employee’s timekeeper and the Finance Department’s Payroll Division.</td>
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<tr>
<td>Department Timekeeper</td>
<td>Enter appropriate leave as indicated by the Office of Employee Relations on the employee’s timecard.</td>
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**Approved:**

/s/ Jennifer Schembri  
Director of Employee Relations  
Director of Human Resources  
May 1, 2020

Approved for posting:

/s/ Jennifer Maguire  
Assistant City Manager  
May 1, 2020

Revised Date: May 1, 2020  
Original Effective Date: April 28, 2020