

City of Delano
COVID-19
Supplemental Paid Sick
Leave Policy

(SPSL)

Effective 10-17-22

Administrative Policy Concerning COVID-19 Supplemental Paid Sick Leave (“SPSL”) Under Labor Code Sections 248.6 and 248.7

Preamble

On February 9, 2022, Governor Newsom signed Senate Bill (“SB”) 114 into law, which reauthorized COVID-19 Supplemental Paid Sick Leave (“SPSL”), providing new paid leave entitlements to employees who are unable to work or telework due to a number of qualifying reasons related to COVID-19.

The law becomes effective on February 19, 2022 and entitles qualified employees to SPSL retroactive to January 1, 2022 and through September 30, 2022.

On September 29, 2022, Governor Newsom signed AB 152, extending the SPSL through December 31, 2022.

The City of Delano adopted this policy in order to provide its employees the SPSL to which they are entitled under Labor Code sections 248.6 and 248.7. The City of Delano will fully and faithfully comply with all relevant and applicable requirements under the Labor Code.

Statement of Policy

This policy is intended to provide all eligible and qualified City of Delano employees with SPSL to which they are entitled under Labor Code sections 248.6 and 248.7.

The following policy sets forth certain rights and obligations regarding this leave.

Compliance

The City of Delano will fully and faithfully comply with Labor Code sections 248.6 and 248.7 in its administration of this policy.

Definitions

“Child” means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands *in loco parentis*. This definition of a child is applicable regardless of age or dependency status.

“Covered Employee” means any City of Delano employee who is unable to work or telework for the City of Delano for one or more of the reasons related to COVID-19 as set forth in this policy.

“COVID-19 Supplemental Paid Sick Leave” or “SPSL” means paid sick leave pursuant to Labor Code sections 248.6 and 248.7.

“Family Member” means any of the following:

- (i) A “child”, as defined above.
- (ii) A biological, adoptive, or 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* when the employee was a minor child.
- (iii) A spouse.
- (iv) A registered domestic partner.
- (v) A grandparent.
- (vi) A grandchild.
- (vii) A sibling.

Policy

Scope of Coverage:

This policy will apply to all Covered Employees employed by the City of Delano.

Effective Dates:

The policy is effective immediately upon adoption, and the paid leave benefits provided herein shall be retroactive to January 1, 2022.

SPSL benefits expire after September 30, 2022, except that the City of Delano will provide a Covered Employee who is on SPSL at the time of the expiration of such benefits the full amount of SPSL to which the Covered Employee would otherwise be entitled.

Unless the underlying law is extended, this policy will expire by operation of the law after September 30, 2022, except that certain Covered Employees may continue to use SPSL after that date as described above.

Employees Eligible for SPSL:

All City of Delano Covered Employees are eligible for SPSL if they are unable to work or telework for one or more of the enumerated reasons related to COVID-19 as provided below.

Qualifying Reasons for SPSL:

A Covered Employee qualifies for SPSL if they are unable to work or telework for one or more of the following reasons:

- 1) The employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidelines of the California Department of Public Health (“CDPH”), the federal Centers for Disease Control and Prevention (“CDC”), or a local health officer who has jurisdiction over the workplace;
- 2) The employee has been advised by a health care provider to self-quarantine due to COVID-19;
- 3) The covered employee is attending an appointment for themselves or a family member to receive a vaccine or a vaccine booster for protection against COVID-19 (May take only up to three (3) days under this qualifying reason unless employee provides verification from a health care provider);
- 4) The covered employee is experiencing symptoms, or caring for a family member experiencing symptoms, related to a COVID-19 vaccine or vaccine booster that prevent the employee from being able to work or telework (May take only up to three (3) days under this qualifying reason unless employee provides verification from a health care provider that employee or family member was continuing to experience symptoms related to the COVID-19 vaccine or vaccine booster past the three days);
- 5) The covered employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- 6) The covered employee is caring for a family member who:
 - a) Is subject to a CDPH, CDC, or local health officer order or guidance to isolate or quarantine, or
 - b) Has been advised by a health care provider to isolate or quarantine;
- 7) The covered 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; or
- 8) The covered employee, or a family member for whom the covered employee is providing care, tests positive for COVID-19.

If an employee requests SPSL for reason 8, the City of Delano may require that the employee provide the positive test result to confirm that the employee qualifies for such leave. The City of Delano may also require that the employee provide the family member’s positive test result if the employee is requesting leave in order to provide care to a covered family member. The City may not accept self-administered and self-read test results.

The City of Delano is not obligated to pay SPSL if employee fails to provide documentation of the positive test results pursuant to Labor Code 248.6 subdivision (b)(2)(D)(iv).

The City of Delano may also require an employee who has taken SPSL for qualifying reason 8 to test for COVID-19 on or after day five, following the initial positive test. If the City of Delano requires such a test, the City of Delano will provide the test at no cost to the employee.

Amount of SPSL for Qualifying Reasons 1 - 7:

1. Leave taken as SPSL is in addition to any other statutory and/or contractual leave to which the employee is otherwise entitled, and which is not specific to COVID-19.
2. Employees who worked at least 40 hours per week in the two weeks before they take SPSL, or who the employer considers to be full-time employees, are entitled to 40 hours of SPSL for qualifying reasons 1 through 7, above.
3. Part-time Covered Employees are entitled to SPSL in the following amounts:
 - a. If the part-time Covered Employee has a normal weekly schedule, the total number of hours the Covered Employee is normally scheduled to work for the City of Delano over one week for qualifying reasons 1 through 7; or
 - b. If the part-time Covered Employee works a variable number of hours, the Covered Employee is entitled to 7 times the average number of hours the Covered Employee worked each day for the City of Delano in the six (6) months preceding the date the Covered Employee took SPSL. If the employee has worked for the City of Delano fewer than six months, then the employer calculates the average hours worked for the entire employment period and multiplies the daily average by seven. If an employee works variable hours and has only worked for the City of Delano seven days or fewer, then the employee receives an amount of SPSL equivalent to the total number of hours worked for the employer.

Amount of SPSL for Qualifying Reason 8:

Employees taking additional COVID-19 supplemental paid sick leave under qualifying reason 8 are entitled to an amount not to exceed that which the employee received under qualifying reasons 1-7.

Covered Employees may determine how many hours of SPSL to use based upon a qualifying reason, up to the total number of hours to which the Covered Employee is entitled.

If a Covered Employee is provided SPSL retroactively for qualifying leave before adoption of this policy, the City of Delano will count the retroactive SPSL provided against the SPSL to which the Covered Employee is entitled.

For Covered Employees that request retroactive SPSL, the City of Delano will request that the employee sign a "COVID-19 Supplemental Paid Sick Leave Acknowledgment," acknowledging the accuracy of the amount of leave designated retroactively.

Compensation While on SPSL:

Covered Employees are entitled to compensation for SPSL at their regular rate of pay *or* the employee's total wages less any overtime premium pay, including pursuant to any applicable collective bargaining agreement, subject to a cap of \$511 per day and \$5,110 in the aggregate.

Employee Notice of Supplemental Paid Sick Leave:

Covered Employees must notify the City of Delano that they intend to take SPSL. The Covered Employee may provide such notice either orally or in writing to City of Delano's Human Resources Department.

Employee Status While on Leave:

The City of Delano will compensate Covered Employees who use SPSL according to the manner described in this policy and will otherwise treat Covered Employees who use COVID-19 Supplemental Paid Sick as if they are using paid sick leave according to the City of Delano's Rules and Regulations Sick Leave Policy.

Employee Obligations for Requesting Retroactive Payments for Prior Leave that Qualified as SPSL:

Employees are entitled to SPSL retroactive to January 1, 2022.

If the City of Delano did not compensate the employee for leave that would otherwise have qualified as SPSL between January 1, 2022 and the effective date of this policy, in an amount equal to or greater to what the employee would have been entitled to under this policy, the employee is eligible for a retroactive payment from the City of Delano for such leave.

In order to receive payment for such leave, employees must make an oral or written request to be paid for such leave to the City of Delano's Human Resources Department.

For any such retroactive payment, the number of hours of leave corresponding to the amount of the retroactive payment shall count towards the total number of hours of SPSL that the employer is required to provide to the Covered Employee.