

*Note: This information is current through March 19, 2020. Given the fast changing nature of the nation's response to the COVID-19 pandemic, please be aware that these facts will likely change and we encourage you to contact us at [pomsconnects@pomsassoc.com](mailto:pomsconnects@pomsassoc.com) for up-to-date information.*

### **1. Can an employee use California Paid Sick Leave due to COVID-19 illness?**

Yes. If the employee has paid sick leave available, the employer must provide such leave and compensate the employee under [California paid sick leave laws](#).

Paid sick leave can be used for absences due to illness, the diagnosis, care or treatment of an existing health condition or preventative care for the employee or the employee's family member.

Preventative care may include self-quarantine as a result of potential exposure to COVID-19 if quarantine is recommended by civil authorities. In addition, there may be other situations where an employee may exercise their right to take paid sick leave, or an employer may allow paid sick leave for preventative care. For example, where there has been exposure to COVID-19 or where the worker has traveled to a high risk area.

### **2. If an employee exhausts sick leave, can other paid leave be used?**

Yes, if an employee does not qualify to use paid sick leave, or has exhausted sick leave, other leave may be available. If there is a vacation or paid time off policy, an employee may choose to take such leave and be compensated provided that the terms of the vacation or paid time off policy allows for leave in this circumstance.

### **3. Can an employer require a worker who is quarantined to exhaust paid sick leave?**

The employer cannot require that the worker use paid sick leave; that is the worker's choice. If the worker decides to use paid sick leave, the employer can require they take a minimum of two hours of paid sick leave. The determination of how much paid sick leave will be used is up to the employee.

### **4. What options do I have if my child's school or day care closes for reasons related to COVID-19?**

Employees should discuss their options with their employers. There may be paid sick leave or [other paid leave](#) that is available to employees. Employees at worksites with 25 or more employees may also be provided up to 40 hours of leave per year for specific school-related emergencies, such as the closure of a child's school or day care by civil authorities (see [Labor Code section 230.8](#)). Whether that leave is paid or unpaid depends on the employer's paid leave, vacation or other paid time off policies. Employers may require employees use their vacation or paid time off benefits before they are allowed to take unpaid leave, but cannot mandate that employees use paid sick leave. However, a parent may choose to use any available paid sick leave to be with their child as preventative care.

### **5. Can an employer require a worker to provide information about recent travel to countries considered to be high-risk for exposure to the coronavirus?**

Yes. Employers can request that employees inform them if they are planning or have traveled to [countries considered by the Centers for Disease Control and Prevention to be high-risk areas for exposure to the coronavirus](#). However, employees have a right to medical privacy, so the employer cannot inquire into areas of medical privacy.

### **6. Is an employee entitled to compensation for reporting to work and being sent home?**

Generally, if an employee reports for their regularly scheduled shift but is required to work fewer hours or is sent home, the employee must be compensated for at least two hours, or no more than four hours, of reporting time pay.

For example, a worker who reports to work for an eight-hour shift and only works for one hour must receive four hours of pay, one for the hour worked and three as reporting time pay so that the worker receives pay for at least half of the expected eight-hour shift.

[Additional information on reporting time pay](#) is posted online.

### **7. If a state of emergency is declared, does reporting time apply?**

[Reporting time pay](#) does not apply when operations cannot commence or continue when recommended by civil authorities. This means that reporting time pay does apply under a state of emergency, unless the state of emergency includes a recommendation to cease operations.

### **8. If an employee is exempt, are they entitled to a full week's salary for work interruptions due to a shutdown of operations?**

An employee is exempt if they are paid at least the minimum required salary and meet the other qualifications for exemption. Federal regulations require that employers pay an exempt employee performing any work during a week their full weekly salary if they do not work the full week because the employer failed to make work available.

An exempt employee who performs no work at all during a week may have their weekly salary reduced.

Deductions from salary for absences of less than a full day for personal reasons or for sickness are not permitted. If an exempt employee works any portion of a day, there can be no deduction from salary for a partial day absence for personal or medical reasons.

Federal regulations allow partial day deductions from an employee's sick leave bank so that the employee is paid for their sick time by using their accrued sick leave. If an exempt employee has not yet accrued any sick leave or has exhausted all of their sick leave balance, there can be no salary deduction for a partial day absence.

Deductions from salary may also be made if the exempt employee is absent from work for a full day or more for personal reasons other than sickness and accident, so long as work was available for the employee, had they chosen to work.

### **9. What protections does an employee have if they suffer retaliation for using their paid sick leave?**

The Labor Commissioner's Office [enforces several laws](#) that protect workers from retaliation if they suffer adverse action for exercising their labor rights, such as using paid sick leave or time off related a specified school activity as outlined in question 4. Additional information on [how to file a retaliation or discrimination complaint](#) is posted online.

Given the evolving nature of this unprecedented health emergency, if you choose not to use available paid sick leave, or have no other paid leave available, employees and employers should discuss what [unpaid or paid leave options](#) may be available.

Making immigration-related threats against employees who exercise their rights under these laws is unlawful retaliation.

### **10. If I am a party in an action filed with the Labor Commissioner's Office, can I seek an accommodation to participate remotely due to the coronavirus?**

Yes. Requests to participate remotely should be emailed to the district office in which the claim has been filed. These requests will be evaluated on a case-by-case basis. A [full listing of Labor Commissioner's Office locations including email addresses](#) is posted online.

*Disclaimer - This briefing has been prepared by Poms & Associates Insurance Brokers, LLC to provide information on recent developments of interest to our clients. It is not intended to offer legal or regulatory advice for a particular situation. Events are rapidly developing during this national state of emergency, and best practices are constantly changing. We recommend that individuals and entities carefully monitor and follow health directives of the WHO and CDC, along with federal, state and local authorities and contact their attorney for more in-depth information regarding any employee action.*