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## **Guidance During the Coronavirus for PTAs with Employees**

**Disclaimer:** The information in this memo is based on research and analysis by California State PTA staff and was current at the time of writing – April 7, 2020. It is intended to provide useful information to PTA leaders, but it is not legal or financial advice. Follow the links to the appropriate governmental agencies to get the latest information. Please note, these programs are generally applicable to entities with fewer than 500 employees. Click [here](#) for DOL guidance on this subject, and [here](#) for the SBA.

Below is list of the information you can find in this document

- A. Payroll Protection Program**
- B. Emergency Paid Sick Leave**
- C. Intermittent Emergency Paid Sick Leave**
- D. Sick Leave under CA State Law**
- E. Emergency Family & Medical Leave**
- F. Reimbursement for Work Supplies**
- G. Furloughs**
- H. Expanded Unemployment Insurance**

### **A. Payroll Protection Program**

The Coronavirus Aid, Relief, and Economic Security (CARES) Act signed into law on March 27 includes several funding programs that provide economic relief for small businesses and not-for-profits including PTAs. More information regarding these programs, including the Paycheck Protection Program (PPP), can be found at the United States Small Business Administration (SBA) website [here](#).

The PPP provides loans to small businesses and not-for-profits, including PTAs, and include potential loan forgiveness as an incentive to keep workers employed. **Please note, there are limited funds available for the PPP which may no longer be available once those funds run out.** Accordingly, should your PTA like to apply, it is recommended that you begin the process as soon as possible. Please be sure to visit the SBA's PPP website for complete and up-to-date information, available [here](#).

The maximum loan amount is the lesser of \$10 million or an amount calculated using a payroll-based formula specified in the CARES Act. The formula is largely based on 2.5 months of

average payroll costs, which are defined in the Interim Final Rule linked on the PPP website. The Interim Final Rule also includes further explanation and illustration of the calculation. It has been widely reported that there is uncertainty regarding some aspects of the calculation and that not all banks are arriving at uniform interpretations. Therefore, if you choose to pursue the loan and have questions regarding the calculation, it is recommended that you reach out to the approved SBA lender you will be working with.

The PPP website also includes a link to a list of SBA approved lenders. Many banks that are SBA approved lenders are choosing to only accept applications exclusively from clients with certain accounts opened prior to March 2020. Therefore, if you choose to pursue the loan, it is recommended that you first attempt to work with your bank if possible. Finding a bank that is accepting applications from non-customers is becoming increasingly difficult. At the time of this writing, U.S. Bank's website indicates it is accepting applications from non-customers (see [US Bank](#)). This is intended as information that might be helpful; NOT an endorsement of any kind for U.S. Bank, which California State PTA has no relationship with.

Finally, below are links to resources from reputable third parties that might be helpful. Please note: these third parties are not authoritative sources and the information they provide may not be accurate, complete or up-to-date. Therefore, please be sure to verify the via an authoritative source, such as the SBA or the United States Treasury, in addition to the SBA lender you will be working with.

- [American Institute of Certified Public Accountants \(COVID-19\) Resource Center](#)
- [National Council of Nonprofits CARES Act Loan Analysis](#)

## **B. Emergency Paid Sick Leave**

Pursuant to the Federal Emergency Paid Sick Leave Act, effective April through December 31, 2020, all full-time employees are entitled to 80 hours of paid sick leave. Part-time employees are entitled to the number of hours worked, on average, over a two-week period. Unused time will not carry over to 2021, and is not paid upon termination.

Employees are eligible for emergency sick leave after the first workday (or portion thereof) so long as the employee is unable to work (including remotely) because of:

1. A federal, state, or local quarantine or isolation order related to the coronavirus.
2. Advice from a health care provider to self-quarantine due to concerns related to the coronavirus.
3. The employee is experiencing symptoms of coronavirus and is seeking a medical diagnosis.
4. The employee is caring for someone who is subject to a quarantine order or a health care provider's advice to self-quarantine.

5. The employee is caring for their child because the child's school or childcare provider has been closed, or if the childcare provider is unavailable, due to coronavirus precautions.
6. 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.

PTAs are encouraged to require the employee follow reasonable notice procedures in order to continue receiving such paid sick leave.

Please note: the calculation of pay for this leave is not necessarily the employee's regular rate of pay. There are special rules for purposes of making these calculations. Please refer to the DOL [Families First Coronavirus Response Act: Questions and Answers](#) for more information.

PTAs *may* also offer intermittent emergency paid sick leave. This leave must be taken in full-day increments until the qualifying condition ends.

**Employers are required to post a notice in a conspicuous place about employee rights by April 1, 2020.** The United States Secretary of Labor has provided a [model notice](#) that may be used to satisfy this requirement. In addition, the DOL [Families First Coronavirus Response Act: Questions and Answers](#) indicates that employers may satisfy this requirement by emailing or direct mailing this notice to employees or posting this notice on an employee information internal or external website.

Finally, please note that pursuant to California State Law, a parent *may* use available California paid sick leave to be with child whose school or day care closes as preventive care (i.e., in addition to Federal Emergency Paid Sick Leave), but is not required to ([State of California COVID-19 – FAQs on laws enforced by the California Labor Commissioner's Office](#)).

### **C. Emergency Family & Medical Leave**

Pursuant to the Federal Emergency Family & Medical Leave Expansion Act, effective April through December 31, 2020, employees who have been employed for at least 30 calendar days are eligible for the expanded family and medical leave.

To qualify for emergency family and medical leave, the employee must be unable to work (or telework) due to a need to care for a son or daughter under the age of 18 due to school closure or unavailability of child care provider or is unavailable due to a public health emergency, such as a COVID-19 related emergency. (Childcare provider means a provider who received compensation for provided childcare services on a regular basis. School means an elementary or secondary school).

PTAs are encouraged to require the employee provide appropriate supporting documentation. For COVID-19 medical leave beyond the first 10 days of Emergency Sick Leave, the employee should continue to provide medical certifications under the FMLA.

**NOTE: Emergency Family & Medical Leave Pay Provisions:**

- **10 unpaid days** – the first 10 days may be unpaid, but the employee may elect to substitute accrued vacation leave, personal leave, or medical or sick leave for unpaid leave.
- **Two-thirds thereafter** – Leave is paid at two-thirds pay after the first 10 days at the employee’s regular rate of pay based on the “normally scheduled hours,” subject to a cap of no more than \$200 per day and \$10,000 in the aggregate, for up to a maximum of 12 weeks. “Normally scheduled hours” includes overtime hours.

**D. Reimbursement for Work Supplies**

Pursuant to California Labor Code Section 2802, PTAs are encouraged to indemnify employees for expenditures incurred during the commission of work-related job functions, including work performed remotely. Employees should seek approval for work related expenses ahead of incurring the expense.

**E. Work in Office Considerations**

To the extent practicable, California State PTA encourages PTAs with staff to implement a remote work policy in accordance with federal, state, and local guidance in response to Coronavirus. Where possible, PTAs are should consider arrangements to head into the office temporarily or for the day. All employees are encouraged to use sound judgment before using public transportation to commute to the office for such purposes.

**F. Furloughs (Temporary Layoff)**

California provides legal requirements any employer should follow concerning Furloughs (Temporary Layoffs). Pursuant to California law, any employer planning to temporarily lay off employees MUST:

- Provide a furloughed employee their “Final Paycheck” in the same normal pay period if no specific return date. *California DLSE Enforcement Manual* § 3.2.2.
- Provide the customary eligibility notices (e.g., unemployment compensation, COBRA, etc.).
- Provide reasonable advance notice before mandatory use of vacation or paid time.
  - California Labor Commissioner has indicated that generally such notice should be the greater of 90 days or one full fiscal quarter.
  - Also, forced payout of PTO (provided in lieu of separate sick leave) is also likely prohibited by sick leave laws.

In addition, California indicates strict compensation guidelines that should be followed:

- Provide Exempt Employees full weekly salary for any week they perform any work ([State of California COVID-19 – FAQs on laws enforced by the California Labor Commissioner’s Office](#)).
- Unpaid furloughs need to be in increments of full (7-day) payroll workweeks.

In addition to California law, both Federal and State WARN Acts Generally require specific forms of 60 days advance notice for mass layoffs and facility/operation closings, which can include furloughs. California Governor Gavin Newsom **issued an executive order with a temporary/conditional suspension of the California WARN Act** ([Executive Order N-31-20](#)) in light of the COVID-19 crisis. Federal WARN exceptions may also reduce the required notice period, such as unforeseeable business circumstances exception, but PTAs should seek legal counsel for further clarification.

### **G. Expanded Unemployment Insurance**

California is responding to the spread of a respiratory illness caused by a new coronavirus (COVID-19). The EDD provides a variety of support services to people who have lost their jobs or have had their hours reduced due to the impacts of COVID-19 in California.

As part of the federal [CARES Act](#), the federal government has approved funding for additional UI benefits to workers impacted by COVID 19, including the self-employed. The EDD has received only overarching information from the U.S. Department of Labor but needs further details to finish building the programming for implementing these changes. Detailed information about what unemployment insurance benefits may be available if an employee is sick or quarantined, are providing caregiving, or affected by reduced work hours, is available through the [California Employment Development Department COVID-19](#) website.

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