



YOUNG, MINNEY & CORR, LLP

LEGAL ALERT

Alert! California Renews Employee Supplemental Sick Leave Program for COVID-19 Related Reasons, Including Retroactive Application and New Employer Rights to Request Proof of Employee COVID-19 Illness

February 11, 2022

With the second anniversary of the onset of the pandemic drawing near, COVID-19 continues to cause substantial disruptions to charter school operations. These disruptions continue even after the expiration of last year's SB 95 Supplemental Sick Leave Program, which had provided a one-time bank of paid leave to employees for COVID-related reasons. As a result, and to assist impacted workers, California recently passed a renewed Supplemental Sick Leave Program to provide new leave rights for COVID-related reasons. This new law was passed as an urgency bill, meaning that it takes effect immediately. Charter school employers should take prompt action to ensure compliance with this new law.

The new law, [SB 114](#), adds Section 248.6 to the Labor Code and provides Supplemental Sick Leave to employees of all employers, with 26 or more employees, including charter schools.

The renewed Supplemental Sick Leave is retroactive to January 1, 2022, and remains in effect until September 30, 2022. Supplemental Sick Leave is available to eligible employees who are unable to work or telework for the following reasons:

- 1. The employee is subject to a quarantine or isolation period related to COVID-19 as defined by an order or guidance of the State Department of Public Health, the federal Centers for Disease Control and Prevention, or a local public health officer who has jurisdiction over the workplace.*
- 2. The covered employee has been advised by a health care provider to isolate or 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*
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.*
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 is subject to an applicable order or guidance.*
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.*
8. *Eligible employees are entitled to receive up to forty (40) hours of Supplemental Sick Leave, depending on their full-time equivalency, with part-time employees receiving an amount of leave that is equal to the total number of hours the employee is regularly scheduled to work. There are also special rules for calculating the Supplemental Sick Leave accruals of variable hour employees.*

In addition, eligible employees are entitled to a separate and additional Supplemental Sick Leave amount of up to forty (40) hours, if the employee or a family member for whom the employee is providing care tests positive for COVID-19. Notably, there is a new proof component to this additional bank of Supplemental Sick Leave, and an employer may require the employee to submit to a diagnostic test as a condition of receiving the additional Supplemental Sick Leave. Employers have no obligation to provide additional COVID-19 Supplemental Sick Leave for an employee who refuses to provide documentation of the results of the positive COVID-19 test. Employers may also limit the amount of Supplemental Sick Leave that an employee uses for vaccination-related reasons to three (3) days hours unless the employee provides proof of continuing symptoms related to the vaccine which last beyond three (3) days.

The renewed Supplemental Sick Leave is available immediately to eligible employees, without the requirement to first use other accrued/unused paid leaves (e.g., other paid sick leave provided pursuant to state/local laws, vacation leave, PTO, etc.). Employers who have provided a voluntary supplemental sick leave program since January 1, 2022, may be able to use such time to satisfy the requirements of SB 114 and may not be required to provide additional Supplemental Sick Leave.

Because the bill is retroactive, employees who were required to use a non-supplemental paid leave or who took unpaid leave for COVID-related reasons after January 1, 2022, are entitled to retroactively request renewed Supplemental Sick Leave for such time.

Charter school employers should take immediate action to implement the renewed Supplemental Sick Leave for eligible employees, including on a retroactive basis effective January 1, 2022. Charter school employers should also watch for the Labor Commissioner's workplace posting/notice regarding SB 114 and should distribute that notice to employees when available.

###

If you have any questions or need assistance please contact James Young jyoung@mycharterlaw.com, Chastin Pierman cpierman@mycharterlaw.com, Sarah Cassady scassady@mycharterlaw.com or Anthony Serrao aserrao@mycharterlaw.com at the Law Offices of Young, Minney & Corr, LLP 916) 646-1400.

Young, Minney & Corr, LLP's Legal Alerts provide general information about events of current legal importance; they do not constitute legal advice. As the information contained here is necessarily general, its application to a particular set of facts and circumstances may vary. We do not recommend that you act on this information without consulting legal counsel.