



## **LEAVE BENEFITS FOR NONESSENTIAL TRAVEL AND COVID-19 RELATED QUARANTINE**

July 30, 2020

With summer well underway and many businesses reopening around the country, some City employees are leaving their homes to travel for vacation, including potentially to areas that are experiencing COVID-19 surges. Sheltering in place continues to be a fundamental strategy for reducing COVID-19 transmission. Consequently, to reduce the spread of COVID-19, many travel destinations require visitors to isolate in an approved location (i.e., to quarantine) before continuing with travel plans. The City encourages employees to follow official health orders to promote public safety.

### **No Sick Leave for Quarantine Associated with Nonesential Travel**

City employees engaging in nonessential travel may not use sick leave if they are unable to work because of a quarantine order associated with that travel. But employees taking vacation, or other discretionary leaves, may be approved to telecommute or use paid leave, other than sick leave, for quarantine periods. Supervisory personnel should advise employees that sick leave is not available for quarantine periods for nonessential travel, and that approved discretionary leaves, such as vacation, must cover quarantine periods occurring before, during, or after nonessential travel, unless the employee can work remotely during that time. Employees using discretionary paid time off for essential travel may request sick leave for periods of required quarantine or isolation.

### **FAQs**

**QUESTION 1:** What do the current Public Health Orders say about out-of-state travel?

**ANSWER:** The current San Francisco Public Health Order continues to encourage all individuals to stay safe by sheltering in place and following health risk reduction measures when they leave their residences. The state Public Health Order encourages individuals to avoid travelling long distances for vacations or pleasure as much as possible. Individuals who engage in leisure travel are advised to check with local health departments along their route and at their planned destination for local public health safety orders.

**QUESTION 2:** Can departments prohibit employees from travelling out-of-state or to areas where COVID-19 is surging?

**ANSWER:** No, but discretionary time off remains subject to prior approval and may be denied for operational reasons. Certain travel, including out-of-state, is permitted under both the State and Local health orders. Consequently, City departments cannot and should not restrict lawful off-duty conduct, including travel. But departments may deny discretionary leave for quarantine purposes if it is operationally impractical to approve such leaves in addition to approved time off for the vacation. Employees taking unauthorized leaves may be subject to discipline, even if the leave is required for quarantine before or after an approved vacation.

**QUESTION 3:** In reviewing time off requests, can departments require employees to disclose planned travel out-of-state – particularly travel to an area where COVID-19 is surging?

**ANSWER:** No. The City's Health Screening protocol and other safety rules do not require employees to disclose planned travel destinations or otherwise report off-duty conduct.

**QUESTION 4:** If employees travel out-of-state, or to areas where COVID-19 is surging, what should departments do when they return to work?

**ANSWER:** Departments should follow the City's Health Screening protocol, which contains reasonable steps for determining whether employees entering the workplace have COVID-19 or pose a direct threat to the health of others. Specifically, before entering the workplace each day, employees must answer the following three questions:

1. Whether employees have experienced specified COVID-19 symptoms within the 24-hour period before reporting to the workplace.
2. Whether employees have had close contact with anyone who has a confirmed COVID-19 diagnosis within the 14-day period before reporting to the workplace.
3. Whether employees have been diagnosed or tested positive for COVID-19 within the 10-day period before reporting to the workplace.

If employees give negative responses to each of these inquiries, then they are considered safe to enter the workplace regardless of where they have travelled prior to returning to work. Employees working in health care or social service settings may be subject to additional screening, including temperature checks and periodic COVID-19 testing.

**QUESTION 5:** What should departments do if employees have concerns about their coworkers returning to work after traveling?

**ANSWER:** Departments may remind employees that the City continues to take reasonable steps to stop COVID-19 from spreading in the workplace. In addition to supervisors observing employees for visible symptoms of COVID-19, all employees must pass the City's health screening process before entering the workplace. Employees who pass the screening are considered safe to be in the workplace.

**QUESTION 6:** If employees quarantine before, during, or after nonessential travel, can they use paid sick leave under the FFCRA Emergency Paid Sick Leave Act (ESP) or City paid sick leave, including the new allocation of sick leave (COV)?

**ANSWER:** No. The guidance issued by the US Department of Labor (DOL) on implementing paid leaves under the Families First Coronavirus Response Act (FFCRA) states that employees must be unable to work or telework due to an official quarantine order. While employees engaged in nonessential travel may be subject to official quarantine orders that prevent them from working or teleworking, they have elected to subject themselves to quarantine and make themselves unavailable for work, by electing nonessential travel to that destination. For this reason, they are not eligible for ESP.

The City interprets Civil Service Rule 120.7.2, which provides sick leave for quarantine, consistent with DOL guidance. Employees may not use sick leave, including COV, for quarantine that is incidental to nonessential travel.

**QUESTION 7:** An employee requests two weeks of vacation pay for a vacation to Canada, and two weeks of paid sick leave for quarantine orders imposed on all persons entering Canada. All together the employee seeks four weeks of paid leave. Are employees entitled to any paid sick leave benefits for COVID-19 related quarantine or isolation orders imposed on travelers?

**ANSWER:** No. FFCRA Emergency Paid Sick Leave (ESP) benefits are not available to employees who are unable to work due to quarantine ordered in connection with nonessential travel, such as a vacation. Employees who choose to travel to locations that require travelers to quarantine make themselves unavailable for work. *See*, DOL FAQ #60. Consistent with the DOL's interpretation of the FFCRA, Civil Service Rule 120.7.2, which provides City paid sick leave for official quarantine orders, does not apply to employees engaging in nonessential travel.

**QUESTION 8:** If an employee returns to work following an approved vacation and is subsequently diagnosed with COVID-19 and required to quarantine, can the employee use ESP, COV or regular sick leave?

**ANSWER:** Yes. Once employees return to work from their approved leave, they are eligible for ESP and City paid sick leave for COVID-19 related impacts, including exposures, symptoms, and illness.

**QUESTION 9:** Are there types of travel for which an employee can use sick leave benefits?

**ANSWER:** Yes, employees may use sick leave or other leave benefits for certain types of essential travel. Employees should refer to the current health orders to determine if their travel is "essential." Currently, essential travel includes travel required to care for elderly, minors, dependents or persons with disabilities; manage after-death arrangements and burial; comply with a court order; comply with parental custody arrangements; or avoid domestic violence or child abuse.