



PUBLIC HEALTH EMERGENCY LEAVE (PHEL) PROCEDURES

(Issued December 31, 2022

Retroactive to October 1, 2022)

This Procedure covers entitlements under the San Francisco Public Health Emergency Leave (PHEL) Ordinance. Effective October 1, 2022, eligible employees can take up to a total of 80 hours¹ of paid leave annually for qualifying reasons related to a declared Public Health Emergency, including air quality emergencies. This paid leave is in addition to paid leave that employees already accrue.

Not all employees are eligible for an allocation of PHEL on October 1, 2022, because the governor has approved legislation extending state COVID-19 paid sick leave benefits through December 31, 2022. Pursuant to provisions in the PHEL Ordinance, an employer providing another COVID-19 supplemental paid sick leave benefit available for the same reasons, and in an amount equal to or greater than the PHEL Ordinance benefit, may count the hours toward its obligation under the ordinance. The previously allocated City COVID-19 paid sick leave benefit (COV) will therefore offset the new PHEL requirement for the COVID-19 public health emergency through December 31, 2022. The offset extends to leave uses covered in both the PHEL Ordinance and COV.

Full-time employees who exhaust their COV balances prior to October 1, 2022, may receive up to 40 hours of PHEL for use through December 31, 2022. Employees with less than 40 hours of COV on October 1, 2022, can receive a prorated number of PHEL hours, so that their total COV and PHEL hours combined will not exceed 40. Eligible part-time employees will receive a prorated number of PHEL hours.

- A. Authority:** San Francisco Police Code, Article 33P: Public Health Emergency Leave. Passed by voters on June 7, 2022, as Proposition G.
- B. Purpose:** To protect and support employees by providing an additional allocation of paid leave for use during declared public health emergencies and air quality emergencies.
- C. Eligible Employees:**
 - 1. Only City and County of San Francisco employees assigned to work locations within the geographic boundaries of San Francisco.

¹ Effective 10/1/2022, employees will receive an initial allocation of 40 hours, thereafter employees will receive 80 hours each January 1. Hours are prorated for employees working less than full-time.

2. Available to any classification or status.
3. Employees hired after October 1, 2022, may not receive an allocation of PHEL hours for any public health emergency declared prior to their City employment date.

D. Criteria for Paid Public Health Emergency Leave:

1. **Public Health Emergencies (Pay Code PHE):** During a declared local or statewide Public Health Emergency related to any contagious, infectious or communicable disease, employees who are unable to work or telework due to the following reasons may take paid PHEL:
 - a. **Public Health Order or Guidelines** -- the recommendations or requirements of an individual or general federal, state, or local health order (including an order issued by the local jurisdiction in which an Employee or a Family Member the Employee is caring for resides) related to a declared public health emergency.
 - b. **Advice from Health Care Provider** -- the employee has been advised by a health care provider to isolate or quarantine.
 - c. **Symptoms or Diagnosis** -- the employee is experiencing symptoms **AND** seeking a medical diagnosis, or has received a positive medical diagnosis or test for a possibly infectious, contagious, or communicable disease associated with a declared public health emergency.
 - d. **Caring for a Family Member** -- the employee is caring for a qualifying family member or designated person who is subject to an order or guidelines, as described in section 1.a.; has been advised to isolate or quarantine by a health care provider, as described in section 1.b.; or experiencing symptoms as in section 1.c.
 - e. **School Closure or Care Provider Unavailable** -- the employee is caring for a qualifying Family Member whose school or place of care has been closed, or the care provider of such Family Member is unavailable, due to a declared public health emergency.
2. **Air Quality Emergencies (Pay Code PHE):** Employees diagnosed with heart or lung disease, certain respiratory conditions, pregnancy, or age 60 years or older, who primarily work outside may take paid PHEL when the **Bay Area Air Quality Management District** has issued a *Spare the Air Alert*.

E. Qualifying Family Members

Family Members for whom employees may take PHEL include:

1. **Child:** includes biological, adoptive or foster child, legal ward, and child of a domestic partner and a child of a person standing *in loco parentis*
2. **Parent:** includes a person who stood *in loco parentis* when the employee was a minor child, and a person who is a biological, adoptive or foster parent, or guardian of the employee's spouse or registered domestic partner
3. **Sibling:** biological, foster or adoptive
4. **Grandparent**
5. **Grandchild**
6. **Spouse or registered domestic partner** under any state or local law
7. **Designated Person:** if the employee has no spouse or registered domestic partner, they may designate a person for whom they will use PHEL to provide aid or care. Employees who have designated a person under the San Francisco Paid Sick Leave Ordinance shall automatically have that person as the designee for using PHEL. Eligible employees may designate a person for using PHEL once in a 12-month period using the City's **Designated Person Form**.

F. Paid Leave Available:

1. a. From October 1 to December 31, 2022, up to 40 hours of paid PHEL is available to full-time employees. The allocation shall be equal to the number of hours an employee regularly works over a one-week period, not to exceed 40 hours.
 - b. For employees working as-needed or variable hours, the allocation shall equal: (1) the average number of hours the employee worked over a one-week period during the previous calendar year; or (2) the average number of hours the employee worked over a one-week period since the hire date, if employed less than the full calendar year.
 - c. New hires may not receive an allocation of PHE when starting work after the October 1, 2022 operative date of the PHEL Ordinance unless a new public health emergency is declared during their City employment.
2. This initial allocation of PHEL shall be prorated for part-time employees to an amount equal to the number of hours the employee is regularly scheduled to work over a one-week period.

3.
 - a. Beginning January 1, 2023, and continuing thereafter each January 1, up to 80 hours of paid emergency leave is available to full-time employees. The allocation shall be equal to the number of hours an employee regularly works over a two-week period, not to exceed 80 hours.
 - b. For employees working as-needed or variable hours, the allocation shall equal: (1) the average number of hours the employee worked during the previous calendar year; or (2) the average number of hours the employee worked over a two-week period since the hire date, if employed less than the full calendar year.
 - c. New hires may not receive an allocation of PHE when starting work after January 1, unless a new public health emergency is declared during their City employment.
4. Employees may use this allocation of PHEL before using other paid leave accruals. Departments cannot require employees to use other paid leave accruals before using PHEL.
5. As-needed employees and employees with irregular work schedules must be prescheduled to work in order to use PHEL for a qualifying reason.
6. PHEL shall be approved only for the period an employee is unable to work or telework due to a qualifying public health emergency or air quality emergency.
7. PHEL can be paid for periods of continuous leave or intermittently.
8. Employees may not carry-over unused PHE from one calendar year to another. Employees must forfeit any unused PHE on December 31, of each calendar year.
9. Employees may not cash-out the PHE benefit and must forfeit any unused PHE remaining at the earlier of the date of separation from City service, the end of each calendar year, or the effective end date for this benefit.

G. Notice Requirements:

1. Employees must give notice of their need for PHEL and should complete and return a **PHEL REQUEST FORM** in advance of taking leave, or as soon as practical. Following department call-in procedures is sufficient advance notice of the need for this paid leave.

2. If giving advance oral notice, employees should also submit a completed **PHEL REQUEST FORM** to their supervisor, manager, or the department's human resources representative as soon as practical.
3. The department human resources representative shall review each PHEL REQUEST FORM and confirm: (1) **that the employee is assigned to a work location within the geographic boundaries of San Francisco**; (2) that the employee seeks PHEL for a qualifying reason and relationship; (3) that the employee seeking paid leave for air quality emergencies has appropriate verification of a vulnerable condition identified in the PHEL Ordinance on file; and (4) how much PHEL pay to approve.
4. If an employee is unable or unwilling to complete the **PHEL LEAVE REQUEST FORM**, a department human resources representative should work with the employee to gather additional information that may be needed to make a determination on the employee's request. Departments may require employees to complete and return a **PHEL LEAVE REQUEST FORM** when the need for PHEL is foreseeable.
5. PHEL shall be coded on employee timesheets as PHE pursuant to procedures developed by the Controller's Office Payroll and Personnel Services Division and the Systems Division.
6. If employees exhaust their available allocation of PHEL, departments will substitute available accrued paid sick leave, or unpaid sick leave; however, employees may elect to use discretionary paid leaves in lieu of taking unpaid sick leave for qualifying public health emergency impacts or air quality emergencies.
7. All requests for paid PHEL received during the period from October 1 to December 31, 2022, will be offset by any COV balance available to the employee and processed as requests for COV.
8. Departments shall consult with the Controller's Office Payroll and Personnel Services Division regarding requests for retroactive PHEL pay and the submission of payroll adjustment requests.

H. Documentation or Verification Requirements

1. **Symptoms:** Employees seeking leave because they have, or a Family Member they are caring for has, symptoms associated with an infectious, contagious, or communicable disease associated with a declared Public Health Emergency may not be denied PHEL pay based solely on a lack of certification from a health care provider. A covered employee is entitled to receive PHEL no later than the next pay period after the PHEL leave is taken. Departments may not

require medical certification as a condition for taking PHEL. Although an employer cannot deny PHEL Leave solely for lack of a medical certification, it may be reasonable in certain circumstances to ask for documentation before paying the PHEL when the department has information indicating that the covered employee is not requesting PHEL for a valid purpose. Departments must have reasonable grounds for investigating an employee's use of PHEL and seeking medical verification. For example, if a covered employee informs an employer that the covered employee has COVID-19 symptoms, has to stay home, and qualifies for PHEL, but the employer subsequently learns that the covered employee was engaged in leisure travel, the employer could reasonably request proof that the employee sought COVID-19 testing within a reasonable time and request a copy of the test results to confirm the required quarantine period.

2. **Diagnoses:** Employees seeking leave to isolate because they have, or a Family Member they are caring for has, been diagnosed with or tested positive for an infectious, contagious, or communicable disease associated with a declared Public Health Emergency may not be denied PHEL pay based solely on a lack of certification from a health care provider. A covered employee is entitled to receive PHEL no later than the next pay period after the PHEL leave is taken. Departments may not require medical certification as a condition for taking PHEL. Although an employer cannot deny PHEL Leave solely for lack of a medical certification, it may be reasonable in certain circumstances to ask for documentation before paying the PHEL when the department has information indicating that the covered employee is not requesting PHEL for a valid purpose. Departments must have reasonable grounds for investigating an employee's use of PHEL and seeking medical verification. For example, if a covered employee informs an employer that the covered employee has been diagnosed with COVID-19, has to stay home, and qualifies for PHEL, but the employer subsequently learns that the covered employee was shopping at the mall, the employer could reasonably request proof of the employee's COVID-19 diagnosis and confirm the required quarantine period.
3. **Air Quality Vulnerability:** Employees in the Vulnerable Population who primarily work outdoors and who seek leave for a declared *Spare the Air Alert*, must submit medical verification of a qualifying diagnosis as identified in the PHEL Ordinance. Qualifying diagnoses include heart or lung disease; respiratory problems, including, but not limited to asthma, emphysema, and chronic obstructive pulmonary disease; or pregnancy. For purposes of verifying a qualifying medical condition, employees may submit a completed **PHEL Health Care Provider Certification Form** or an equivalent medical certification. Employees

age 60 years or older who primarily work outdoors and who seek leave for a declared *Spare the Air Alert* are not required to submit verification of a qualifying medical condition.

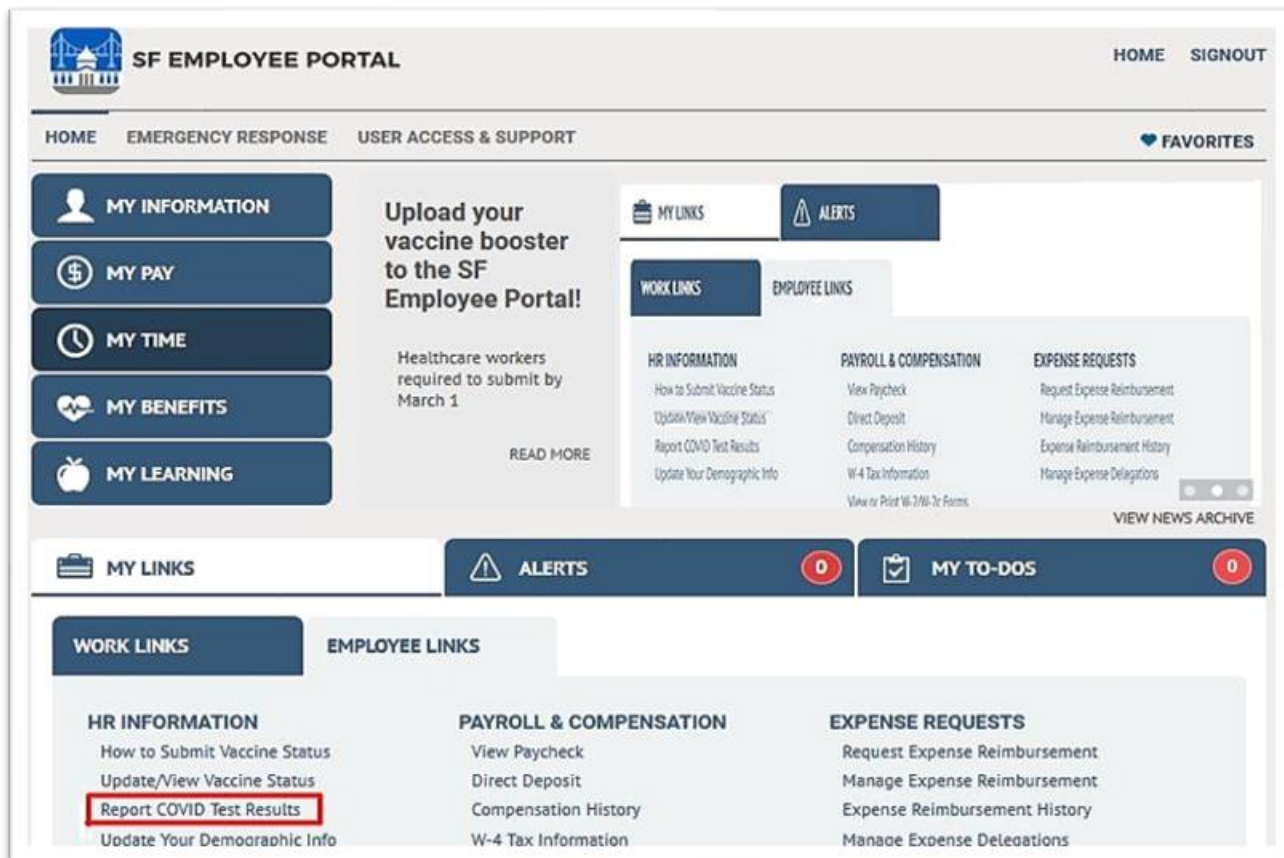
- 4. **School/Care Provider Closures or Unavailability:** Employees seeking leave to care for a Family Member because the school or place of care of the Family Member has been closed due to a declared Public Health Emergency are not required to provide additional documentation or verification beyond the information required on the **PHEL LEAVE REQUEST FORM**.

I. Uploading Proof of COVID-19 Test Results in People and Pay

Employees are directed to self-report COVID-19 test results in the following circumstances:

- 1. To verify eligibility for certain COV leave benefits requiring proof of a positive test; and
- 2. To verify proof of a negative test for early return to work from quarantine after a positive result (after Day 5).

To upload COVID-19 test results, go to the Employee Portal and click on Employee Link and choose “Report Covid Test Result.”



J. Offset Provisions and Integration With Other Benefits

1. Departments will reduce the amount of PHE available to employees who have unused COV Paid Sick Leave. The PHE allocation shall be reduced for every hour of COV Paid Sick Leave available to employees effective October 1 through December 31, 2022. Full-time employees can receive a maximum of 40 hours of PHE, less any available COV.

Sample PHE Balance Calculations for Full-time Employees

COV Balance on 10/1/2022	PHE Allocation 10/1/2022	Available Leave for Public Health Emergencies 10/1 to 12/31/2022*
0 hours	40 – 0 = 40 hours	40 hours
17 hours	40 – 17 = 23 hours	40 hours
40 hours	40 – 40 = 0 hours	40 hours
80 hours	40 – 80 = <-40> 0 hours	80 hours

*Excludes leave vulnerable employees may take for air quality emergencies.

2. Beginning January 1, 2023, and in any subsequent years, if the City is required by federal, state, or City law to provide paid leave or paid time off to address a public health emergency, and that leave can be used for the reasons described in Section D of this procedure, then the City will again reduce the amount of PHE allocated to employees. The PHE allocation will be offset by every hour of public health crisis leave the City is required to provide under any federal, state, or City law.
3. Employees may use PHE to supplement workers’ compensation benefits payable for industrial illness or injury caused by work-related exposure to infectious, contagious, or communicable disease associated with a declared Public Health Emergency.
4. Employees cannot be required to use available PHE before receiving Exclusion Pay required under the Cal-OSHA COVID-19 Emergency Temporary Standards (ETS). In such cases, employees will receive paid administrative leave (PAL) during their exclusion period and will **not** be required to first use PHE.
5. Employees are entitled to receive Exclusion Pay (rather than use PHE) under the following conditions and when they are not otherwise also receiving disability payments or workers’ compensation temporary disability payments:
 - a. The employee is excluded from work and is unable to telework as a result of a close contact with a COVID-19 case in the workplace; or

- b. The employee is excluded from work and unable to telework because they have a confirmed COVID-19 case that is work-related as defined in the Cal OSHA ETS.

J. Restrictions and Potential Limits On Use

- 1. **Employees Assigned to Work Locations Outside of San Francisco** – City employees assigned to work locations outside the geographic boundaries of San Francisco are not eligible for PHEL under the Ordinance. This includes, but is not limited to, employees assigned to the following work locations:

Alameda County	Moccasin
Burlingame	San Bruno
Colma	San Joaquin County
Daly City	San Mateo County
Groveland	South San Francisco
Hetch-Hetchy	Sunol
Millbrae	Tuolumne County

- 2. **Health Care Workers and First Responders** – In the event that staffing or operational needs warrant restricting use of PHEL, the City reserves the right to limit Health Care Providers and Emergency Responders to taking PHEL as provided under the Ordinance. Such restrictions may be subject to meet and confer obligations in California labor laws and applicable Memoranda of Understanding.