

Seattle's Paid Sick and Safe Time and New Federal COVID-19 Paid Leave Comparison Frequently Asked Questions & Answers May 29, 2020

For the first time in history, the federal government is requiring paid leave for some private-sector employees. This document provides answers to questions you may have about how Seattle's Paid Sick and Safe Time law (PSST) interacts with the leave provided in the federal Families First Coronavirus Response Act and the Coronavirus Aid, Relief, and Economic Security Act (Federal COVID-19 leave). Both the Federal COVID-19 leave and PSST protect public health by ensuring that employees and children can stay home, away from coworkers, school, and customers when they are sick or during a public health emergency.

Do you have a PSST question that isn't covered by this Q&A? More information is available in our [Paid Sick and Safe Time Comprehensive Q&A](#) and our [Paid Sick and Safe Time COVID-19 Q&A](#). You may also visit our [Paid Sick and Safe Time Website](#), call 206-256-5297, or reach us electronically:

- Employees with questions and complaints—submit an [online inquiry](#) or send an email to workers.laborstandards@seattle.gov.
- Employers with requests for technical assistance—submit an [online inquiry](#) or send an email to business.laborstandards@seattle.gov.

To get more information on the Federal COVID-19 leave, please visit the [Department of Labor, Wage and Hour Division](#) website.

The Federal Families First Coronavirus Response Act passed on March 19, 2020, and the US Department of Labor issued a temporary rule interpreting the law on April 1, 2020. Additional guidance from the Department of Labor and Washington State Department of Labor and Industries is forthcoming.

The information in this Q&A document is subject to change based on guidance from state and federal authorities.

The Federal COVID-19 leave:

- Applies to employers with *fewer than* 500 employees, with other exemptions
- Is immediately available
- Provides two types of benefits with different rules around who is covered:
 - Provides **two-weeks of paid or partially paid sick leave** that can be used immediately and through the end of 2020 (COVID-19 Sick Leave)
 - Provides **up to 12 weeks of partially paid leave to care for a child** whose school or daycare has been closed because of the COVID-19 public health emergency (COVID-19 Expanded Federal Family and Medical Leave)
- Is administered by the federal Department of Labor, Wage and Hour Division.

The Seattle Paid Sick and Safe Time Ordinance:

- Applies to all employers with employees working in Seattle
- Allows employees to use PSST hours that they accrue over time
- Provides paid leave to care for oneself or another's healthcare needs; or due to workplace, place of care, or school closure; or for a critical safety reason related to domestic violence, sexual assault, and/or stalking
- Is administered by the Seattle Office of Labor Standards

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Who does the Federal COVID-19 leave apply to?

COVID-19 Sick Leave:

Covered employers include some public employers and private employers with fewer than 500 employees. All employees of covered employers (except specified healthcare providers or emergency responders) are eligible for the COVID-19 sick leave to use for defined reasons.

COVID-19 Expanded Federal Family and Medical Leave:

Covered employers include some public employers and private employers with fewer than 500 employees, with some exemptions. Private employers may qualify for an exemption from the family care provisions if the business has fewer than 50 employees and if the leave requirements would jeopardize the viability of the business, or if the business employs health care providers or emergency responders and elects to exclude those employees from coverage. Other exemptions may apply.

Employees of covered employers are eligible for the COVID-19 family medical leave if the employee has been employed for at least 30 calendar days and is caring for a “son or daughter” under age 18 whose school or place of care has been closed, or childcare is unavailable, due to a public health emergency declared by a governmental authority with respect to COVID-19.

Who does Seattle’s Paid Sick and Safe Time apply to?

Covered employers include all employers with employees who work in Seattle. All employees who perform work in Seattle are covered by Seattle’s law, including full-time, part-time, temporary, exempt, and non-exempt employees.

What benefits does the Federal COVID-19 leave provide to employees?

Sick Leave for Self-Care:

An employee can receive up to two weeks of paid leave that may be used in 2020 if the employee cannot work or telework because (1) they are subject to a governmental quarantine or isolation order related to COVID-19, (2) they have been advised by a health care provider to self-quarantine due to concerns related to COVID-19, or (3) they are experiencing symptoms of COVID-19 and seeking a medical diagnosis. In these circumstances, the employee must be paid the higher of their regular rate of pay or the applicable minimum wage, up to a maximum of \$511 a day and \$5,110 total, for the average number of non-overtime hours they work in two weeks.

Sick Leave for Caregiving:

An employee can receive up to two weeks of paid leave that may be used in 2020 if the employee cannot work or telework because they are caring for (1) an individual who is subject to a governmental quarantine or isolation order related to COVID-19, or who has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19; or (2) their son or daughter under age 18 if, due to COVID-19 precautions, the child’s school has been closed or the childcare provider is unavailable. In these circumstances, the employee must be paid 2/3 of either their regular rate of pay or the applicable minimum wage (whichever is higher), up to a maximum of \$200 a day and \$2,000 total, for the average number of non-overtime hours they work in two weeks.

Expanded Federal Medical and Family Leave:

An employee can take up to 12 weeks of paid, job-protected leave (unpaid for the first 10 days, during which time the employee can receive pay by using COVID-19 sick leave or Seattle PSST) to care for a son or daughter, under the age of 18, whose school or place of care has been closed or the childcare provider is unavailable due to a governmental declaration of a COVID-19 public health emergency and the employee cannot work or telework. After day ten, the employee must be paid 2/3 their regular rate of pay, up to a maximum of \$200 per day or \$10,000 total, for the hours they would normally work in the period of leave.

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Employees who take COVID-19 Family Care Leave have the right to return to their position unless their employer has fewer than 25 employees, a change of conditions has caused the employer to cut the position, and the employer makes reasonable efforts to restore the employee to equivalent employment.

What benefits does Seattle PSST provide to employees?

An employee accrues paid sick and safe leave hours over time. The amount depends on how many hours an employee works and the size of their employer’s business. For details, please visit the [Office of Labor Standards webpage](#). Employees can use this paid leave for a number of COVID-19 and non-COVID 19 related reasons. Please see the below chart for more information.

Quick Comparison of Seattle and Federal laws

	Seattle Paid Sick & Safe Time	Federal COVID-19 Sick Leave	Federal COVID-19 Expanded Family & Medical Care Leave
How much leave can an employee take?	Employees accrue PSST based on the number of hours they work and the size of the employer.	Up to two weeks, based on the average number of non-overtime hours the employee works in a two-week period.	Up to 12 weeks based on the average number of hours an employee works in a week. Employees will only be eligible to the extent they have not already used up their regular FMLA entitlement.
When is the leave available?	Immediately, once a worker has been employed for 90 days. PSST hours, up to a certain amount, will carry over into 2021.	Immediately as of April 1, 2020. The leave is not retroactive. The leave will expire at the end of 2020.	Immediately as of April 1, 2020, for employees who have been employed at least 30 days. The leave will expire at the end of 2020.
How much is an employee paid for the leave?	All PSST hours are paid at the employee’s normal hourly compensation, not including tips or service charges.	<ul style="list-style-type: none"> Employee leave: Regular rate of pay, up to a maximum of \$511 per day and \$5,110 total, if one is taking it for themselves. Caretaking leave: 2/3 the employee’s normal rate of pay, up to a maximum of \$200 per day and \$2,000 total. 	COVID-19 Family Care Leave is unpaid for the first 10 days of use. Thereafter, it is paid at 2/3 the employee’s regular rate of pay, up to a maximum of \$200 per day and \$10,000 total.
When can the leave be used?	For the employee’s own circumstances, or to care for another experiencing: <ul style="list-style-type: none"> Mental or physical illness, injury, health condition, or medical appointment. Domestic violence, sexual assault, or stalking; Closure of employee’s workplace by public official 	Employee leave: <ul style="list-style-type: none"> When quarantined pursuant to a government order or the advice of a healthcare provider; or When experiencing COVID-19 symptoms and seeking a medical diagnosis. 	To care for one’s child whose school or childcare provider is closed due to a public health emergency declared by a governmental authority regarding COVID-19

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	<p>for health or safety related reason</p> <ul style="list-style-type: none"> • For businesses with 250 or more employees, closure of employee’s workplace for any health or safety related reason • Closure of family member’s school/place of care for any reason 	<p>Caretaking leave:</p> <ul style="list-style-type: none"> • Caring for an individual who is quarantined pursuant to a government order or the advice of a healthcare provider; or • Caring for child, under 18 years of age, and the child’s school or childcare provider is closed due to COVID-19. 	
<p>What are the increments the leave can be used in?</p>	<p>Overtime-eligible employees may use PSST in the smallest increment in which compensation is tracked by the employer, not to exceed one hour.</p> <p>Employers may deduct PSST for overtime-exempt employees in accordance with state and federal laws.</p>	<p>May be used in increments if the employer and employee agree, and they may designate the increment by agreement.</p>	<p>The smallest increment the employer uses to account for use of other forms of leave, not to exceed one hour.</p> <p>The leave may be used intermittently if the employer agrees.</p>
<p>Who may an employee care for under each type of leave?</p>	<p>“Family members,” including children, grandchildren, grandparents, parents, parents-in-law, siblings, spouses, or registered domestic partner.</p> <ul style="list-style-type: none"> • “Children” and “parents” are defined to include legally-recognized relationships including “de facto” relationships. 	<ul style="list-style-type: none"> • Any “individual subject to quarantine” (as long as there is a bona fide need to do so); or • A “son or daughter” under 18 years of age. “Son or daughter” does not include “de facto” relationships. 	<p>A “son or daughter” under 18 years of age. “Son or daughter” does not include “de facto” relationships.</p>

Can an employee use the COVID-19 Federal Sick Leave on more than one occasion, or is it “use it or lose it”?

If the employer agrees, an employee may use their COVID-19 Paid Sick Leave incrementally. Without an agreement, the employee may only use the COVID-19 Sick Leave one time, until the leave is depleted or the need for the leave terminates.

Does one type of leave have to be used before the others?

No. In general, the employee may decide which type of leave they would like to use first. An employer cannot require an employee to use other types of paid leave before using Federal COVID-19 Sick Leave. Nor can an employer require an employee to use PSST.

An employer may require an employee to use COVID-19 Expanded Family & Medical Leave in a qualifying circumstance, for example to care for a child whose school or childcare provider is closed due to a public health emergency declared by a governmental authority regarding COVID-19. For more information on what circumstances qualify, please contact the [Department of Labor, Wage and Hour Division](#).

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Can an employer *require* an employee to use PSST or COVID-19 Sick Leave concurrently with COVID-19 Expanded Federal Family & Medical Leave?

No, but if the reason for using COVID-19 Expanded Federal Family & Medical Leave also qualifies as a reason for using PSST or COVID-19 Sick Leave, an employee may choose to use PSST or COVID-19 Sick Leave concurrently with the first unpaid ten days of COVID-19 Expanded Federal Family Care Leave. For more information on what circumstances qualify, please contact the [Department of Labor, Wage and Hour Division](#).

Can an employee use PSST concurrently with COVID-19 Leave that is paid at 2/3 to “top-up” their compensation to full pay?

Yes, if an employee and employer agree, an employee may use PSST to bring their compensation to full pay.

Where can I find more information about the federal COVID-19 Leave?

Please visit the [Department of Labor, Wage and Hour Division](#) website.

What if I have more questions about my rights or responsibilities under Seattle’s Paid Sick and Safe Time Ordinance?

Please visit the [Seattle Office of Labor Standards \(OLS\) webpage](#). There are two documents that may be of specific help: a short [COVID-19 Q&A](#), which is available in multiple languages, and a comprehensive [PSST Q&A](#). You can call us at [206-256-5297](#). We can answer questions and provide resources!

Where can I find out more about COVID-19 and the steps I can take to prepare?

Visit the Public Health – Seattle & King County [website](#) for information on COVID-19, which includes an [extensive FAQ](#) and recommendations for preparedness for the general public, schools, workplaces, health care workers, and more.

Visit this webpage to [discover resources for communities impacted by Covid-19](#).