

AB 1867 – COVID-19 Supplemental Paid Sick Leave Employee Credit Examples

Determine if credit can be taken for sick leave previously paid March 4, 2020 through September 18, 2020 (assuming there was no legal obligation to pay) for purposes of reporting supplemental paid sick leave balances on paystubs. This can be complicated to determine so employers are advised to seek legal counsel.

Example 1:

An employer paid their workers even though no work was performed due to one of the local shelter-in-place orders issued in March. The employee did not have COVID-19. The employee was not home caring for a family member with COVID-19. The employee was not home due to concerns with his/her health. A general shelter in place order does not meet the criteria for credit. Refer to the Department of Industrial Relations FAQs (FAQ number 6) for more information.

Example 2:

An employee who now qualifies for COVID-19 supplemental paid sick leave tested positive for COVID-19 between March 4, 2020 and September 18, 2020. The employer voluntarily paid the employee his/her normal rate of pay at the time even though the employer was not required by law to pay the employee. The employer could take a credit for such past paid sick leave.

- Note: Confirm that the employee was paid at their full rate for the full amount of time for which the employee now qualifies for COVID-19 supplemental paid sick leave. If not, pay the employee the balance due.

Example 3:

An employer paid Supplemental Paid Sick Leave under a local ordinance that does not allow a collective bargaining waiver (i.e. Sacramento or Santa Rosa) or paid supplemental sick leave under a local ordinance even though a collective bargaining waiver was granted. An employer may be entitled to a credit.