

# A Guide to **COVID-19** Replacement Income and Job-Protected Leave Programs for California Workers



Many California residents have lost work or experienced a reduction in hours because of coronavirus (COVID-19). Other Californians whose workplace is still open might need time off to care for themselves or a loved one. Many of these workers may be entitled to some time off for coronavirus-related absences, and/or eligible for some form of wage replacement while they are not working.

This guide provides an overview of the replacement income and job-protected leave programs available to California's workers, and can help orient workers to the programs that may be right for them.

Revised October 23, 2020



CALIFORNIA RURAL LEGAL ASSISTANCE, INC.

## IMPORTANT NOTE REGARDING PROGRAM EXPIRATIONS

This guide was last updated in October 2020 and information may not be up-to-date.

**As of December 22, 2020, the California Supplemental Paid Sick Leave laws and Families First Coronavirus Response Act are scheduled to expire on December 31, 2020.** While workers will still be able to claim emergency paid sick leave under those laws for absences that occurred prior to December 31, 2020, the rights these laws create will NOT apply to absences taking place on January 1, 2021 or after.

We are closely monitoring the news for any updates re: extension of COVID-19 emergency paid sick leave at the state and federal levels.

For the latest updates, please visit:

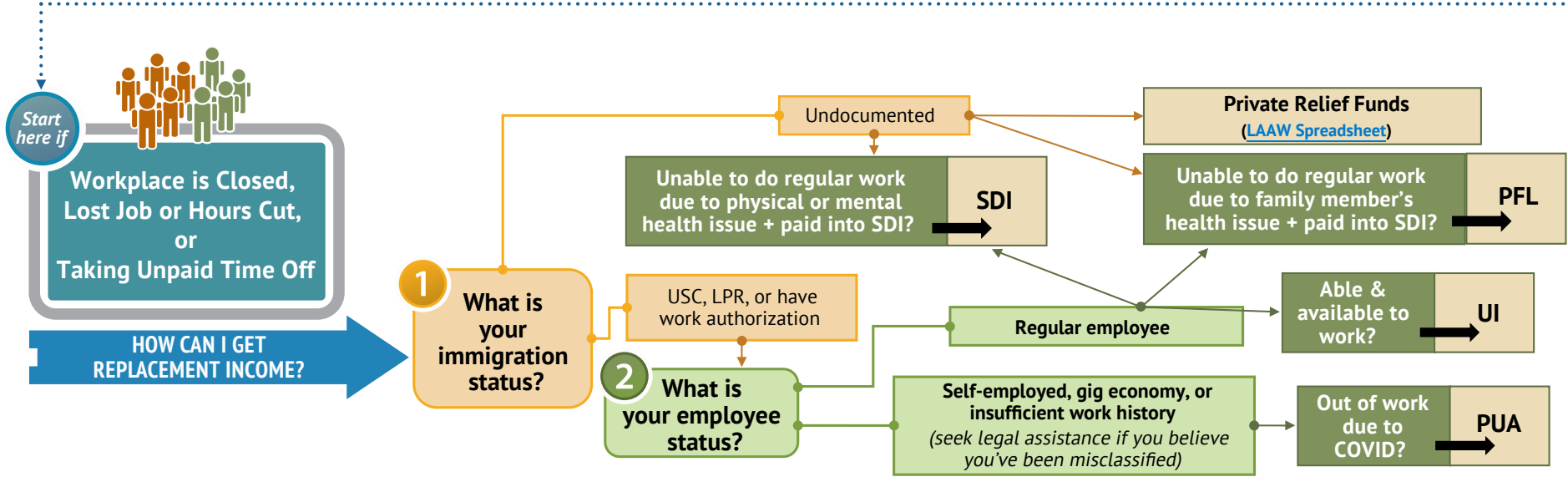
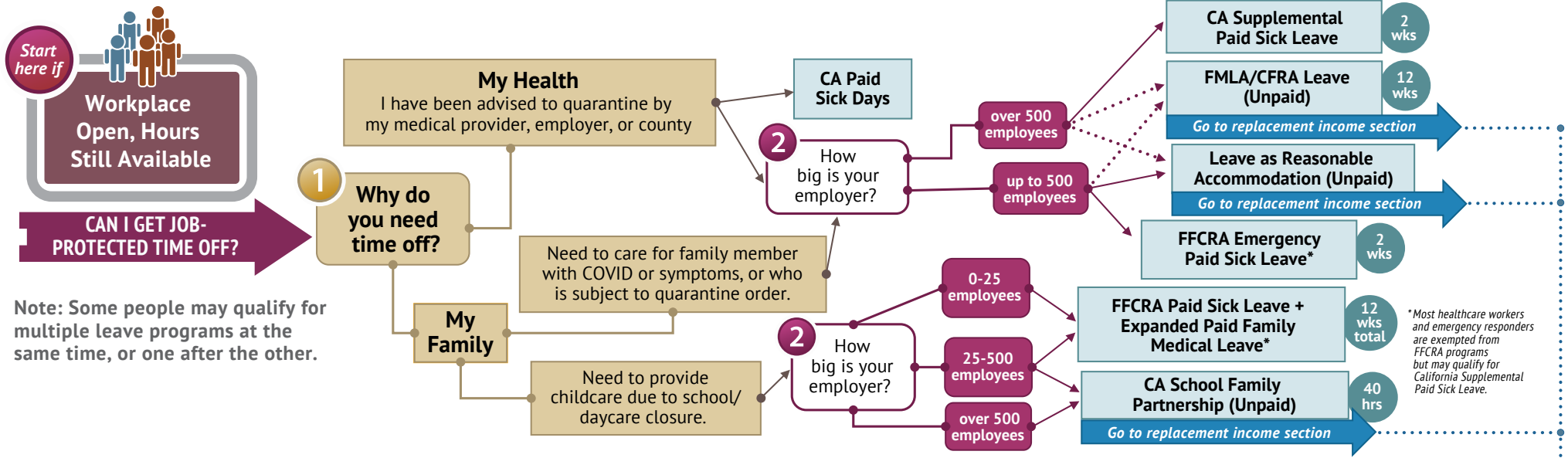
- United States Department of Labor's website on the Families First Coronavirus Response Act:  
<https://www.dol.gov/agencies/whd/ffcra>
- California Labor Commissioner's FAQ on the California Supplemental Paid Sick Leave:  
<https://www.dir.ca.gov/dlse/FAQ-for-PSL.html>

In addition, the Pandemic Unemployment Assistance and Pandemic Emergency Unemployment Compensation programs have been extended into 2021 but details regarding implementation are still forthcoming. For the latest information, please visit:

- Employment Development Department's page on the CARES Act:  
[https://edd.ca.gov/about\\_edd/coronavirus-2019/cares-act.htm](https://edd.ca.gov/about_edd/coronavirus-2019/cares-act.htm)



# NEED TIME OFF OR REPLACEMENT INCOME?



See next chart for information on how to apply for benefits

In addition to the programs listed, workers who may have contracted COVID-19 in the workplace should consider filing a workers' compensation claim.

**COVID-19 LEAVE BENEFITS (WITH OR WITHOUT PAY); GENERALLY REQUIRE WORKPLACE TO BE OPEN**

PROTECTIONS/RESOURCES	BENEFITS	BASIC ELIGIBILITY	HOW TO GET IT
<p><a href="#"><b>California COVID-19 Supplemental Paid Sick Leave</b></a> (LC 248, 248.1) (paid benefit)</p>	<ul style="list-style-type: none"> <li>➤ Paid time off for up to <b>two workweeks on top of</b> other paid sick days or accrued leave.</li> </ul> <p>Compensation: <b>Regular wages</b>, or state/local minimum wage if higher.</p>	<ul style="list-style-type: none"> <li>✓ Works for a business with 500+ employees; health care workers or emergency responders not covered by FFCRA may also be eligible for this benefit regardless of size of employer.</li> <li>✓ Worker is unable to work due to COVID-related <a href="#">quarantine or isolation order or advice of a health care provider</a>; or is <a href="#">prohibited from working by hiring entity</a> due to COVID-related health concerns.</li> </ul>	<p>Request from your employer.</p> <p>Click qualifying reasons under "Basic Eligibility" for templates you can use.</p>
<p><a href="#"><b>Families First Coronavirus Response Act (FFCRA) Emergency Paid Sick Leave*</b></a> (paid benefit)</p>	<ul style="list-style-type: none"> <li>➤ Paid time off for up to <b>two workweeks on top of</b> other paid sick days or accrued leave.</li> <li>➤ Compensation:                             <ul style="list-style-type: none"> <li>- <b>Regular wages</b> if for <u>own</u> illness or care, up to \$511/day.</li> <li>- <b>2/3 regular pay</b> for <u>care of other</u>, up to \$200/day.</li> </ul> </li> <li>➤ Continued healthcare benefits.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Unable to work or telework due to (a) having <a href="#">COVID-19 symptoms and seeking diagnosis</a>; (b) <a href="#">COVID-19 quarantine or isolation order, or medical advice to quarantine</a>; or (c) COVID-related <a href="#">care of another</a>, including <a href="#">child home due to COVID-related closure</a> if no other care provider is available or for ill family member.</li> <li>✓ Employer has <b>fewer than 500</b> employees.</li> <li>✓ Workplace is still open &amp; hours are available.</li> <li><b>X</b> If using to <a href="#">care for a healthy child</a> and fewer than 50 employees, employer can claim exemption (leave would jeopardize business viability).</li> <li><b>X</b> Providing leave to Emergency Responders and health care workers (broadly defined) is not mandatory.</li> </ul>	<p>Request from your employer.</p> <p>Click qualifying reasons under "Basic Eligibility" for templates you can use.</p> <p>Include:</p> <p><b>Reason you are unable to work</b> and source of quarantine order or medical advice, if applicable.</p>
<p><a href="#"><b>FFCRA Emergency Family and Medical Leave Expansion*</b></a> (partially paid benefit)</p>	<ul style="list-style-type: none"> <li>➤ Job-protected time off</li> <li>➤ Up to <b>twelve weeks</b></li> <li>➤ First two weeks <b>unpaid</b> (can use paid sick days or other accrued leave)</li> <li>➤ Remaining 10 weeks paid at <b>2/3 regular rate</b>, up to \$200/day.</li> <li>➤ <u>Runs concurrent</u> with FFCRA Sick Days and FMLA leave.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Unable to work or telework due to <a href="#">need to care for child home</a> due to COVID-related closure.</li> <li>✓ No other care provider is available.</li> <li>✓ Work history of at least 30 days with the company.</li> <li>✓ Employer has <b>fewer than 500</b> employees.</li> <li>✓ Workplace is still open &amp; hours are available.</li> <li><b>X</b> If fewer than 50 employees at company, employer can claim exemption (leave would jeopardize business viability).</li> <li><b>X</b> Providing leave to Emergency Responders and health care workers (broadly defined) is not mandatory.</li> </ul>	<p><b>If to care for a child</b>, include child's name, school info, and statement that no other caregiver is available.</p>

Chart continues on next page

COVID-19 LEAVE BENEFITS (Continued from Page 2)

PROTECTIONS/RESOURCES	BENEFITS	BASIC ELIGIBILITY	HOW TO GET IT
<p><a href="#"><u>California Paid Sick Days</u></a> (paid benefit)</p>	<ul style="list-style-type: none"> <li>➤ Time off paid at <b>regular rate</b></li> <li>➤ Employers may limit use to <b>3 days per year*</b></li> <li>➤ Healthcare benefits continue</li> <li>➤ If taking time off for COVID-19 related reason, employer cannot require you to exhaust California Paid Sick Days before taking COVID-19 Paid Sick Leave.</li> </ul> <p><i>*Some jurisdictions have additional days.</i></p>	<ul style="list-style-type: none"> <li>✓ Employee has accrued sick leave hours available.</li> <li>✓ Work history of at least 90 days with company.</li> <li>✓ Absence due to illness, diagnosis, seeking preventive care (including self-quarantine by order of civil authority), or care for a family member.</li> </ul>	<p>Request from your employer.</p> <p>Accrued sick time should be listed on paystubs.</p>
<p><a href="#"><u>Family Medical Leave Act (FMLA) / California Family Rights Act (CFRA)</u></a> (unpaid benefit)</p>	<ul style="list-style-type: none"> <li>➤ Job-protected time off <b>without pay</b></li> <li>➤ Up to <b>12 weeks</b> per year</li> <li>➤ With continued benefits</li> </ul> <p><i>(Consider SDI or PFL to replace income.)</i></p>	<ul style="list-style-type: none"> <li>✓ Medical certification of your own, or a family member's serious health condition.</li> <li>✓ Employer has 50+ employees within 75 miles.</li> <li>✓ Work history of 1+ year with the company and 1,250+ hours in the previous year (accommodations for seasonal workers).</li> </ul>	<p><a href="#"><u>Request from your employer (template here).</u></a></p> <p>Provide medical certification if employer requests.</p>
<p><a href="#"><u>Leave as a Reasonable Accommodation</u></a> (unpaid benefit)</p>	<ul style="list-style-type: none"> <li>➤ Typically: unpaid, job-protected leave. Duration depends on individual situation.</li> </ul> <p><i>(Consider SDI or PFL for income replacement.)</i></p>	<ul style="list-style-type: none"> <li>✓ Employee has disabilities which necessitate leave.</li> <li>✓ Employer has 5+ employees.</li> <li>✓ Leave does not create undue hardship for employer.</li> </ul>	<p><a href="#"><u>Request from your employer (template here).</u></a></p>
<p><a href="#"><u>California Family School Partnership Act</u></a> (unpaid benefit)</p>	<ul style="list-style-type: none"> <li>➤ Up to 40 hours of <b>unpaid</b>, job protected time off.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Employer has 25+ employees in same location</li> <li>✓ Reason for leave is need to care for child due to childcare or school emergency, such as closure.</li> </ul>	<p>Provide notice to employer.</p>

## COVID-19 INCOME REPLACEMENT BENEFITS AVAILABLE REGARDLESS OF WHETHER WORKPLACE IS OPEN

PROTECTIONS/RESOURCES	BENEFITS	BASIC ELIGIBILITY	HOW TO GET IT
<p><a href="#">Unemployment Insurance (UI)</a></p> <p><a href="#">+ Lost Wage Assistance</a></p> <p><b>+ FED-ED</b></p>	<p>40-50% previous earnings, \$40-\$450 per week.</p> <ul style="list-style-type: none"> <li>➤ UI recipients with active claims for the weeks of 7/26-8/29 will also receive an additional \$300 in <a href="#">Lost Wages Assistance</a> for those weeks <b>if (1) they certify that they are out of work related to COVID-19 and (2) their Weekly Benefit Amount is greater than \$100</b>; this supplement is currently available for up to six weeks and may be extended.</li> <li>➤ Benefits available for up to 59 weeks in total: 26 weeks of regular Unemployment Insurance, 13 weeks of Pandemic Emergency Unemployment Compensation, and 20 weeks of FED-ED extension benefits. Total weeks available depends on <a href="#">individual circumstances</a>.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Able &amp; available to work full-time, OR unavailable due to need to care for a child home from school with no other childcare option or ability to work remotely.</li> <li>✓ Out of work or hours much reduced.</li> <li>✓ Not at fault for separation from last job.</li> <li>✓ Some on-the-books work history and earnings (minimum amounts <a href="#">here</a>).</li> <li>✓ <u>Immigration Status</u>: Must have work authorization—generally not available to undocumented workers.</li> </ul>	<p>Apply via <b>Employment Development Department</b> (<a href="#">strongly suggested to apply online</a>).</p> <ul style="list-style-type: none"> <li>➤ If applying by phone, keep log &amp; ask to backdate.</li> <li>➤ No separate application for FED-ED.</li> </ul>
<p><a href="#">Pandemic Unemployment Assistance (PUA)</a></p> <p><a href="#">+ Lost Wage Assistance</a></p> <p><b>+ FED-ED</b></p>	<p>Based on previous income, \$167-\$450/week, for up to 46 weeks or until 12/26/2020.</p> <p>PUA recipients with active claims for the weeks of 7/26-8/29 will also receive an additional \$300 in <a href="#">Lost Wages Assistance</a> for those weeks; this supplement is currently available for up to six weeks and may be extended.</p>	<ul style="list-style-type: none"> <li>✓ Able &amp; available to work at least part-time, OR unavailable related to COVID (ill, caring for other, work closed, etc.).</li> <li>✓ Out of work or hours much reduced related to COVID-19 pandemic.</li> <li>✓ Do not qualify for UI (e.g. self-employed, gig economy, or insufficient work history).</li> <li>✓ <u>Immigration Status</u>: U.S. Citizen, LPR, or other “<a href="#">qualified immigrant</a>.”</li> </ul>	<p>Apply via <b>EDD</b> (<a href="#">strongly suggested to apply online</a>).</p> <ul style="list-style-type: none"> <li>➤ Application is integrated with UI application.</li> <li>➤ Complete bi-weekly continued claim forms</li> </ul>

Chart continues on next page

COVID-19 INCOME REPLACEMENT BENEFITS (Continued from Page 4)

PROTECTIONS/RESOURCES	BENEFITS	BASIC ELIGIBILITY	HOW TO GET IT
<p><a href="#">State Disability Insurance (SDI)</a></p>	<p>60 or 70% of your previous income, up to \$1,300 per week, for up to 52 weeks.</p>	<ul style="list-style-type: none"> <li>✓ Unable to do regular work due to medical condition, including mental health issue, pre-existing condition, or medically-required quarantine.</li> <li>✓ Medical provider must certify application.</li> <li>✓ Worker paid into SDI (deductions on paystubs).</li> <li>✓ <u>Immigration status</u>: Does not matter.</li> </ul>	<p>Apply via <b>EDD</b>.</p> <ul style="list-style-type: none"> <li>➤ If no SSN, apply on paper and leave blank, but send paystub or note saying what SSN you worked under.</li> <li>➤ Doctor can certify via EDD online.</li> </ul> <p>For more information about transitioning from Paid Sick Leave to SDI, <a href="#">please see here &gt;&gt;</a></p>
<p><a href="#">Paid Family Leave (PFL)</a></p>	<p>60 or 70% of your previous income, up to \$1,300 per week, for up to 6 weeks (8 weeks starting in July 2020).</p>	<ul style="list-style-type: none"> <li>✓ Unable to work due to need to care for ill or quarantined family member.</li> <li>✓ Medical provider certification may be required.</li> <li>✓ Worker paid into SDI (deductions on paystubs).</li> <li>✓ <u>Immigration status</u>: Does not matter.</li> </ul>	
<p><a href="#">Workers Compensation</a></p>	<ul style="list-style-type: none"> <li>✓ Replacement income (Up to 2/3 of lost wages)</li> <li>✓ Medical care paid by employer</li> <li>✓ Temporary or permanent disability benefits</li> <li>✓ Supplemental Job Displacement Benefit that covers retraining or skill enhancement</li> <li>✓ Death benefits paid to spouse or dependents.</li> </ul>	<ul style="list-style-type: none"> <li>✓ Employee was hurt on the job during 1) one event that occurred at work that caused an injury or 2) employee had repeated exposure at work that led to a work-related injury. This includes contracting COVID-19 from work-related exposure.</li> <li>✓ Workers that are eligible for Workers Compensation replacement income may also be eligible for SDI, however, usually cannot receive both benefits for the same period of time. More information about the difference between Workers Compensation and SDI <a href="#">available here</a>.</li> <li>✓ More information about COVID-19 in the workplace <a href="#">available here</a>.</li> </ul>	<ul style="list-style-type: none"> <li>➤ Report the work injury with the employment site immediately (within 30 days of the injury or when the illness developed)</li> <li>➤ Complete the Division of Workers' Compensation claim form and provide it to the employer <a href="#">available here</a></li> <li>➤ File the Application for Adjudication of Claim with the California Division of Workers' Compensation <a href="#">available here</a>.</li> </ul>
<p><b>Private Relief Funds</b></p>	<p>Small, typically one-time grants to help cover basic necessities.</p>	<p>All relief funds have different application processes and eligibility. See Legal Aid at Work's <a href="#">spreadsheet</a> for information about each relief fund. <i>None of the listed funds takes immigration status into account.</i></p>	



## REQUESTING COVID-19 EMERGENCY PAID SICK LEAVE: WHICH TEMPLATE SHOULD I USE?

We have created bilingual templates for workers who need to request emergency paid sick leave because they are unable to work due to their own COVID-19 illness or quarantine.

For workers who need leave to care for another person due to COVID-19, please use templates linked in the chart starting on page 2.

The primary paid sick leave laws California workers are covered by are the Families First Coronavirus Response Act, California Labor Code section 248, and California Labor Code section 248.1. These laws provide 80 hours of emergency paid sick leave for a worker's own CV-19 related absence, with overlapping but distinct qualifying reasons. FFCRA leave applies to most workers, at businesses of fewer than 500 employees; the California supplemental paid sick leave laws apply to workers at businesses of 500 or more employees and those excluded from the FFCRA due to being considered health care providers or emergency responders. **Templates 1-3** address leave under the FFCRA and California Supplemental for all workers.

### APPROPRIATE TEMPLATES: WORKERS OTHER THAN HEALTH CARE OR EMERGENCY RESPONDERS

Reason for Leave	FFCRA <500 employees all industries	California Supplemental PSL 500+ employees; all industries OR any size; health care worker or emergency responder
<b>CV-19 Symptoms or Diagnosis</b>	Likely qualifies. Use <a href="#">Template 3</a> .	N/A
<b>Subject to CV-19 Quarantine Order or Medical Advice to Quarantine</b>	Likely qualifies. Use <a href="#">Template 1</a> .	Likely qualifies. Use <a href="#">Template 1</a> .
<b>Prohibited by Employer from Working</b>	N/A	Likely qualifies. Use <a href="#">Template 2</a> .

California's supplemental paid sick leave requirements for workers other than Food Sector workers only went into effect September 19, 2020. Therefore, health care providers and emergency responders, as well as non-food sector workers at businesses of 500 or more employees should look to local law to determine if they were entitled to paid sick leave for absences that began before that date.

COVID-19 Emergency Paid Sick Leave (up to 80 hours in addition to accrued leave)				
Who is Covered by Which Law?				
	# EE's	Where?	Industry	Effective Date
<b>Families First Coronavirus Response Act</b>	<500	Nationwide	All, optional for Health Care, Emergency Response	4/1/2020
<b>California Supplemental</b>	500+	CA	Food Sector	4/16/2020
	500+	CA	All	9/19/2020
	Any Size	CA	Health Care, Emergency Response	9/19/2020

	Qualifying Reasons	
	FFCRA	CA Supp
<b>CV-19 Symptoms Seeking Diagnosis</b>	Y	N
<b>CV-19 Quarantine</b>	Y	Y
<b>Prohibited from Working by ER</b>	N	Y
<b>Need to Care for Other**</b>	Y, 2/3 reg rate	N

\*\*FFCRA provides additional expanded family leave, not addressed in this chart.





CRLA

# COVID-19 WORKERS' RIGHTS HELPLINE

1-800-357-9513

MON – FRI: 9AM–5PM



Call us for a **free and confidential** legal consultation if you have questions about...

1. COVID-19 and your rights at work
2. How to get paid or unpaid time off if you need it
3. Unemployment benefits and other wage replacement options



## Who is it for?

- Agriculture workers in any California county
- Low-wage workers (non-agriculture) in 24 California counties:

- |            |              |                   |              |
|------------|--------------|-------------------|--------------|
| ■ Colusa   | ■ Mendocino  | ■ Santa Clara     | ■ Sonoma     |
| ■ Fresno   | ■ Merced     | ■ San Diego       | ■ Stanislaus |
| ■ Imperial | ■ Monterey   | ■ San Joaquin     | ■ Sutter     |
| ■ Kern     | ■ Napa       | ■ San Luis Obispo | ■ Tulare     |
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