

## **How COVID-19 May Impact Your Employment <sup>1</sup>- updated on March 30, 2020**

If you or someone you know has ***been laid off or had your hours of employment cut***, we suggest contacting the Employment Development Department (EDD) and applying for unemployment benefits as soon as practicable. The EDD is experiencing a huge influx in calls and online applications, so be patient and get your application as soon as possible. You can apply by phone at 1-800-300-5616 or online at [https://www.edd.ca.gov/unemployment/Filing\\_a\\_Claim.htm](https://www.edd.ca.gov/unemployment/Filing_a_Claim.htm).

If you or someone you know has ***had to take time off*** to care for a personal illness, the illness of a loved one, or to care for a child due to school closure, you may be entitled to expanded rights under the Families First Coronavirus Response Act. Contact our office to discuss your options.

If you or someone you know has ***been laid off and has not been paid complete final wages***: under state law, if you are terminated, you must be paid your final wages on the same day. As a penalty to the employer, for every day that you are not paid your final wages, you're owed an additional day of pay for a maximum of 30 days. If this has happened to you, notify the Department of Labor Standard and Enforcement (DLSE) at <https://www.dir.ca.gov/dlse/DistrictOffices.htm> or call our office so that we can assess your case and assist you.

If your employer has ***treated you differently based on your race, national origin, or association with someone who comes from a country disparately impacted by COVID-19***, you may be experiencing discrimination. It would be prudent to report this behavior to your human resources department or manager immediately. Then, contact our offices or file a complaint with the Department of Fair Employment and Housing at <https://www.dfeh.ca.gov/ComplaintProcess/>.

## **Frequently Asked Employment Law Questions Amid COVID-19 (as of 3/30/2020):**

**1) My work has closed during this pandemic and I have no income. What do I do?**

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<sup>1</sup> This handout is for informational purposes only and does not initiate an attorney-client relationship between Open Door Legal and the reader. Please contact our office if you feel that your employer has violated your rights.

If you were an employee at a “non-essential” business that had to close its doors to comply with the shelter-in-place order, you should be eligible for unemployment benefits during the time that you’re expected to be out of work. You can file online at <https://www.edd.ca.gov/unemployment/>. Be aware that wait times are exceptionally long right now, but the sooner you can get an application in, the better.

**2) My work has drastically cut my hours during this pandemic. I’m not unemployed but I am not getting the same pay as before and am worried about paying my bills. What do I do?**

If you are an employee at a business that has had to reduce its hours, you are likely eligible for underemployment benefits. You can apply online just like you would for unemployment benefits at <https://www.edd.ca.gov/unemployment/>.

**3) I have been hearing about direct payments from the government under a new stimulus bill. Will I receive a direct payment under the new law?**

Under the CARES act (aka the “stimulus bill”) signed into law on Friday, March 27th, if you pay taxes and earn less than \$75,000 per year, you should receive a one-time direct deposit of up to \$1,200. Married couples who pay taxes together and earn less than \$150,000 are eligible for a one-time payment of up to \$2400 plus \$500 per child. This payment will come in the form of a direct deposit to the bank account on file with the IRS. For more information, see <https://www.npr.org/2020/03/26/821457551/whats-inside-the-senate-s-2-trillion-coronavirus-aid-package> or <https://www.nytimes.com/article/coronavirus-stimulus-package-questions-answers.html>

**4) If my only source of income is Social Security, am I still eligible to receive a payment under the stimulus bill?**

Yes. You are still eligible to receive the one-time direct payments outlined above.

**5) If I am an independent contractor who typically is not eligible under unemployment laws, am I now eligible for unemployment insurance?**

Yes. If you are not eligible under California’s unemployment insurance laws, then you may be eligible under the federal expansion. Under the act, there is a new, temporary Pandemic Unemployment Assistance program effective through the end of this year.

In addition to what the state will cover, the federal bill provides an additional \$600 per week for up to four months. The bill applies to workers who are self-employed, independent contractors, and/or engaged in the gig economy.

**6) I am not eligible for unemployment insurance even under the new guidelines. Are there any resources for me?**

Yes. You should apply for public benefits online at <https://www.sfhsa.org/>. Specifically, if you need money for groceries, you should apply for <https://www.sfhsa.org/services/health-food/calfresh> . Although the office is closed, you can call (415)558-4700 or apply online. For cash assistance, go to <https://www.mybenefitscalwin.org/> and apply for CalWORKS if you're able to work or have dependent children or CAAP if you're unable to work and do not have dependent children. You may also call (415) 557-5100 for CalWORKS applications and (415) 558-2227 for CAAP applications.

**7) My child's school is closed and I do not have other childcare lined up. I am otherwise employed and can go to work. What do I do?**

If your child's school has closed and you need to take care of them, discuss options with your employer. As of April 2, 2020, under the Emergency Family and Medical Leave Expansion Act within the Families First Coronavirus Response Act, employers with less than 500 people must extend up to two weeks of paid sick leave to its employees and 12 weeks of job protected unpaid leave to any employee who has worked at the company for 30 days and needs to take care of children due to school closures. However, employers with less than 50 employees may seek an exemption.

You may also have paid leave that you are entitled to utilize even incrementally. If your worksite has over 25 employees, you should also be entitled to 40 hours of leave per year for school related emergencies. (Labor Code 230.8) See the Labor Commissioner's FAQ document for more information, available at <https://www.dir.ca.gov/dlse/2019-Novel-Coronavirus.htm>

**8) If I am sick and/or quarantined with no work from home option, am I entitled to take paid sick leave?**

Yes. If you are sick from COVID-19 and need time off to heal, be treated for, or be diagnosed with an illness, you are entitled to take paid sick leave. The employer must provide the leave and comply with California's paid sick leave laws. See the Labor Commissioner's FAQ document for more information, available at <https://www.dir.ca.gov/dlse/2019-Novel-Coronavirus.htm>

Per the recently passed Emergency Family and Medical Leave Expansion Act within the Families First Coronavirus Response Act, employees of covered employers are entitled to two weeks of expanded family and medical leave to care for themselves or family members affected by COVID-19 including children whose schools have closed. Employees who have worked for covered employers for 30 days are entitled to an additional 10 weeks of paid leave to care for family members affected by COVID-19. Note that most of the expanded paid leave provisions only cover up to 2/3 of the employee's regular rate. See <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>. Additionally, employers with less than 50 employees may seek an exemption from this law.

**9) If I am sent home to quarantine, must I use my paid sick leave?**

No. It is the employee's choice whether to use their sick leave. However, if the employee decides to use paid sick leave, the employer may mandate that the employee utilize a minimum of (2) two hours of paid sick leave. Otherwise, the employee may determine how much paid sick leave they would like to take.

**10) Once my sick leave is exhausted, can I use other leave such as paid vacation time?**

Yes, an employee can choose to use their vacation or paid time off consistent with the employer's policy.

**11) I do not believe that I am sick, but I have some symptoms consistent with COVID-19 and my employer sent me home for 14 days. Can my employer send me home from work if I am having symptoms but do not believe I am sick?**

Yes, the CDC recommends that individuals displaying symptoms consistent with COVID-19 be sent home from work for 14 days for the safety of all other workers in the workplace.

**12) I am of Asian-descent or Italian-descent and my employer sent me to work from home but did not insist that other employees do the same. Is this legal?**

No. An employer cannot treat you differently based on your race or your national origin. This is evidence of discrimination and should be reported to your human resources department or supervisor immediately.

**13) I recently travelled to countries experiencing a high amount of COVID-19 diagnoses and my employer is insisting that I stay out of the office for 14 days. Is this legal?**

Yes. The CDC recommends that individuals who have traveled to certain countries be extra cautious about the spread of COVID-19. An employer can request that you stay away from the office for 14 days. However, they cannot retaliate against you when you come back to the office. Furthermore, the employer cannot ask about your medical condition or disclose your medical conditions to its staff.

**Other guidance on COVID-19 specific employment laws:**

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

<https://www.dol.gov/agencies/whd/flsa/pandemic>

[https://www.eeoc.gov/eeoc/newsroom/wysk/wysk\\_ada\\_rehabilitaion\\_act\\_corona\\_virus.cfm](https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_corona_virus.cfm)