

Guidance Regarding COVID-19 Related Leaves March 31, 2021 – Issuance

Summary of COVID-19 Related Notices and Regulations Pertaining to Academic Personnel

- On March 16, 2020, former President Napolitano issued an executive order whereby eligible employees would receive a “one-time allotment of up to 128 hours of paid administrative leave,” subject to specific enumerated conditions.¹
- On November 12, 2020, President Drake issued an amended executive order whereby eligible employees would be able to use their “one-time allotment of up to 128 hours of paid administrative leave,” by June 30, 2021.
- On March 11, 2021, President Biden signed the American Rescue Plan Act of 2021 (ARPA) into law, which gives employers the option to offer their employees Emergency Paid Sick Leave (EPSL) in 2021. Effective March 29, 2021, the University is providing up to 80 hours of EPSL for full-time employees and the two-week equivalent for part-time employees. (See FAQ 1 for additional information regarding EPSL’s effective dates.) The EPSL that the University is offering in 2021 is more generous than federal law would require and more generous than California’s COVID-19 supplemental paid sick leave.

Summary of COVID-19 Related Paid Leaves

Below is a summary of the two COVID-19 related paid leave provisions potentially available to academic appointees. Appointees who are eligible for more than one of these leave options may apply for all entitlements they are eligible for and can choose which to take first.

Regardless of whether academic appointees have exhausted their COVID-19 paid leave options (EPAL and EPSL), they may use paid leave by using any remaining personal time off or vacation. Also, see the [2021 EPSL Request Form](#). For UC Expanded Paid Administrative Leave Guidance, see [Guidance for Supervisors](#).

UC Expanded Paid Administrative Leave (EPAL)	2021 Emergency Paid Sick Leave (EPSL)
128 hours or 16 days for FTE prorated for part-time appointees	80 hours for FTE or the two-week equivalent for part-time appointees
March 1, 2020 – June 30, 2021	March 29 – September 30, 2021 (See FAQ 2 for additional information)
No prior service requirements	No prior service requirements
Can be taken intermittently, and for exempt appointees is recorded in whole days. For hourly appointees, leave taken is entered in hours.	See FAQ 11

¹ [Coronavirus update: Expanded leave policies.](#)

UC Expanded Paid Administrative Leave (EPAL)	2021 Emergency Paid Sick Leave (EPSL)
<p>Qualifying reason for use – unable to work or telework because of:</p> <ol style="list-style-type: none"> 1. Appointee’s own COVID-19 related illness or that of a family member² 2. Appointee directed not to come to worksite for COVID-19 related reasons and/or worksite has COVID-19 related remote work program or is under shelter in place order <u>and</u> it is not operationally feasible for employee to work remotely 3. COVID-19 related school or daycare closure requires appointee to be at home with child/dependent <u>and</u> it is not operationally feasible for appointee to work remotely or in conjunction with childcare commitment <p>The use of EPAL “shall not adversely affect the delivery of essential University services.”</p> <p>Instruction is an essential service of the University. Instructors are not eligible to take EPAL during their scheduled remote lectures/class sessions for criterion 3 above.</p>	<p>Qualifying reason for use – unable to work or telework because of:</p> <ol style="list-style-type: none"> 1. Quarantine or isolation order 2. Told by health care provider to self-quarantine 3. (a) appointee is experiencing COVID-19 symptoms and seeking a medical diagnosis; (b) appointee has been exposed to COVID-19 and is seeking or awaiting the results of a diagnostic test for, or a medical diagnosis of, COVID-19; (c) the University has requested that appointee obtain a diagnostic test for, or a medical diagnosis of, COVID-19, and appointee is seeking or awaiting those results; (d) appointee is obtaining immunization related to COVID-19; or (e) appointee is recovering from injury, disability, illness, or condition related to obtaining COVID-19 immunization 4. Caring for individual subject to quarantine/isolation order or who was told by health care provider to self-quarantine 5. Caring for child whose school/place of care is closed or child care provider unavailable b/c of COVID-19 6. Other substantially similar condition specified by HHS Secretary

FAQs Related to COVID-19 Paid Leaves

For information on the application of UC Expanded Paid Administrative Leave, please see [guidance for academic supervisors](#).

1. Who is eligible for leave under the EPSL?

All appointees are eligible for EPSL in 2021, regardless of their length of employment at the University or appointment type. Although health care workers and emergency responders were not eligible to take EPSL for Reasons 4 or 5 in 2020, they are eligible to take EPSL for any reason in 2021.

2. When is 2021 Emergency Paid Sick Leave (EPSL) effective?

Appointees are able to take EPSL between March 29, 2021 and September 30, 2021. If an appointee took any leave between January 1, 2021 and March 28, 2021 for one or more of

² Pursuant to APM - 715-0(b), “family member” is defined as an appointee’s child, parent, spouse, or domestic partner (same sex or opposite sex).

the EPSL qualifying reasons but was not paid as described in FAQ 17, the appointee may request that the University allow them to retroactively use EPSL. Also, any appointee who has an EPSL leave in progress on September 30, 2021, must be permitted to finish taking the amount of EPSL that they are entitled to receive.

3. Will an academic appointee be asked to complete documentation to request 2021 Emergency Paid Sick Leave (EPSL)? Is there a form for UC Expanded Paid Administrative Leave? Must a form be used?

Appointees may request EPSL orally or in writing. Locations should encourage appointees to complete the systemwide leave request form that asks the appointee to specify pertinent information regarding eligibility for EPSL and to certify that the information provided is correct. See the [2021 EPSL Request Form](#). If an appointee is unwilling to complete the form but is eligible for EPSL, the location should grant the leave.

A form for requesting and tracking UC Expanded Paid Administrative Leave is available for academic appointees. See the [UC Expanded Paid Administrative Leave Request and Tracking Form for Academic Appointees](#).

It is not required that a location use one of these forms, but academic appointees can be encouraged to use the appropriate form. If an appointee does not use a form but provides all of the documentation required that demonstrates their eligibility for the leave (in an email, for example), the University should maintain that documentation and grant the leave.

4. When can an academic appointee subject to a quarantine or isolation order (including a stay-at-home order) (Reason 1) elect emergency paid sick leave (EPSL)? For example, can an appointee subject to a quarantine or isolation order elect EPSL because they are unable to telework for lack of an ergonomic computer set-up?

“Quarantine or isolation orders include a broad range of governmental orders, including orders that advise some or all citizens to shelter in place, stay at home, quarantine, or otherwise restrict their own mobility.” If an appointee is not covered by a particular order, then the appointee cannot rely on that order in seeking to take EPSL for Reason 1. For example, an order that excludes essential works such as healthcare workers, would not apply to such appointees.

The implementation guidelines issued by the U.S. Department of Labor provide that the critical question to determine eligibility for paid sick leave is *“whether the employee would be able to work or telework ‘but for’ being required to comply with a quarantine or isolation order.”* Under Reason 1, the appointee has to be unable to work or telework because the

appointee is subject to a federal, state or local quarantine or isolation order related to COVID-19. In other words, being subject to the order must be the reason that the appointee is unable to work (or telework) for the University. An appointee subject to a valid order may not take EPSL under Reason 1 if the University does not have work for the appointee to perform based upon a COVID-19 or other reason. The DOL further provides, *“that an employee subject to a quarantine or isolation order is able to telework, and therefore may not take paid sick leave, if (a) his or her employer has work for the employee to perform; (b) the employer permits the employee to perform that work from the location where the employee is being quarantined or isolated; and (c) there are no **extenuating circumstances** that prevent the employee from performing that work. For example, if a law firm permits its lawyers to work from home, a lawyer would not be prevented from working by a stay-at-home order, and thus may not take paid sick leave as a result of being subject to that order. In this circumstance, the lawyer is able to telework even if she is required to use her own computer instead of her employer’s computer.”* Examples of **extenuating circumstances** include serious COVID-19 symptoms or a power outage. Lack of ergonomic computer set-up likely does not meet the same standard of extenuating circumstances and thus an appointee subject to a quarantine or isolation order would not be permitted to take paid sick leave under EPSL for lack of an ergonomic computer set-up at home. However, to the extent there are disability concerns, locations should engage in the **interactive process**.

Examples provided by the Department of Labor where EPSL under Reason 1 would be appropriate include: (a) If an employee is prohibited from leaving a containment zone and their employer remains open outside the containment zone and has work the employee cannot perform because the employee cannot leave the containment zone, the employee may use EPSL. (b) If an employee is ordered to stay at home by a government official for fourteen days because the employee was on a cruise ship where other passengers tested positive for COVID-19, and their employer has work for the employee to do but the employee cannot work (or telework) because of the order, the employee may use EPSL.

5. **When can an academic appointee who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 (Reason 2) elect EPSL?**

Advice to self-quarantine may be based on the health care provider’s belief that the appointee has COVID-19, may have COVID-19, or is particularly vulnerable to COVID-19. The implementation guidelines issued by the U.S. Department of Labor provide that, *“[S]elf-quarantining must prevent the employee from working. An employee who is self-quarantining is able to telework, and therefore may not take paid sick leave for this reason, if (a) his or her employer has work for the employee to perform; (b) the employer permits the employee to perform that work from the location where the employee is self-*

quarantining; and (c) there are no extenuating circumstances, such as serious COVID-19 symptoms, that prevent the employee from performing that work.”

6. When can an academic appointee experiencing COVID-19 symptoms (Reason 3(a)) elect EPSL?

The implementation guidelines issued by the U.S. Department of Labor provide that *“paid sick leave taken for this reason must be limited to the time the employee is unable to work because he or she is taking affirmative steps to obtain a medical diagnosis. Thus, an employee experiencing COVID-19 symptoms may take paid sick leave, for instance, for time spent making, waiting for, or attending an appointment for a test for COVID-19. But, the employee may not take paid sick leave to self-quarantine without seeking a medical diagnosis. An employee who is waiting for the results of a test is able to telework, and therefore may not take paid sick leave, if: (a) His or her employer has work for the employee to perform; (b) the employer permits the employee to perform that work from the location where the employee is waiting; and (c) there are no extenuating circumstances, such as serious COVID-19 symptoms, that may prevent the employee from performing that work.”* In addition, an appointee *“may continue to take leave after testing positive for COVID-19, regardless of symptoms experienced, provided that the health care provider advises the employee to self-quarantine...”* (Reason 2). An appointee who is *“unable to telework may continue to take paid sick leave under this reason while awaiting a test result, regardless of the severity of the COVID-19 symptoms that he or she might be experiencing.”*

7. When can an academic appointee caring for an individual who is either subject to a federal, state, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 (Reason 4) elect EPSL?

The implementation guidelines issued by the U.S. Department of Labor provide that this qualifying reason applies only if *“but for a need to care for an individual, the employee would be able to perform work for his or her employer....”* The appointee will need to identify their relationship to that individual.

8. An academic appointee has requested paid leave (i.e., UC Expanded Paid Administrative Leave and/or EPSL) because they are unable to work or telework due to a lack of childcare as a result of COVID-19. How can I determine whether the appointee is eligible for paid leave and which leave they are eligible for?

An academic appointee who is unable to work or telework because they are caring for their child whose school or place of care has closed (or whose child care provider is unavailable)

due to COVID-19 reasons is eligible to take UC Expanded Paid Administrative Leave or EPSL (Reason 5). The use of UC Expanded Paid Administrative Leave must not adversely affect the delivery of essential University services, which includes the delivery of instruction.

9. How are the paid leave entitlements related to COVID-19 (i.e., UC Expanded Paid Administrative Leave and/or EPSL) being funded? To which funding source should locations charge time when an academic appointee is determined to be eligible for paid leave?

Locations should charge paid leave to an academic appointee's regular funding source unless instructed otherwise. There is no systemwide central source of funds.

10. May an eligible academic appointee on approved UC Expanded Paid Administrative Leave elect to use such leave intermittently?

Per former President Napolitano's executive order, UC Expanded Paid Administrative Leave may be taken intermittently. For exempt employees, this means it must be taken for a minimum of one working day.

11. May an eligible academic appointee on approved EPSL elect to use such leave intermittently?

Yes, but only in certain circumstances as described below. It depends on whether the appointee is teleworking or working onsite, and it may also depend on the reason for which the appointee is taking EPSL:

- Non-exempt appointees who are teleworking may take EPSL as a block leave or intermittently in increments of at least one hour.
- Exempt appointees who are teleworking may take EPSL as a block leave or intermittently in whole day increments.
- Appointees working onsite may take EPSL for any reason as a block leave but may only take EPSL intermittently if taking EPSL for Reason 5. When taking EPSL intermittently for Reason 5, non-exempt appointees may take EPSL in increments of at least one hour, and exempt appointees may take EPSL in whole day increments. For public health reasons, appointees working onsite who are taking EPSL for Reasons 1-4 or 6 must continue using EPSL until the appointee either uses the full amount of EPSL or no longer has a qualifying reason for using EPSL.

- 12. Does an academic appointee on paid leave related to COVID-19 (i.e., UC Expanded Paid Administrative Leave and/or EPSL) continue to accrue service credit for purposes of UCRP and continue to accrue vacation and sick time, if applicable?**

An academic appointee on paid leave continues to accrue vacation and sick time, as well as service credit for purposes of UCRP, as they normally would under pay status. Academic appointees who are eligible to accrue sabbatical leave shall continue to accrue credits as they normally would under pay status.

- 13. May an academic appointee elect paid leave related to COVID-19 (i.e., UC Expanded Paid Administrative Leave and/or EPSL) past their pre-determined appointment end date?**

No, consistent with applicable collective bargaining agreements and the APM, an academic appointee may not elect paid leave related to COVID-19 past their pre-determined appointment end date.

- 14. Who should an academic appointee contact to initiate paid leave related to COVID-19?**

An academic appointee should first notify their direct supervisor of the need to take paid leave related to COVID-19. Academic appointees and supervisors should work with their local academic personnel office to determine eligibility.

- 15. If a fiscal year academic appointee is on approved paid leave (i.e., UC Expanded Paid Administrative Leave and/or EPSL) because they are unable to work or telework due to lack of childcare related to COVID-19 school closures, can they continue to use such leave even once their child's school would have ended – i.e., during the summer?**

Yes, assuming that the same eligibility requirements are met, such as summer school, daycare or summer recreation camp closure, fiscal year academic appointees would continue to be eligible for such leave during the summer. However, new documentation may be required for EPAL. For EPSL, locations may encourage appointees to complete a new request form; however, if an appointee is unwilling to complete the form but is eligible for EPSL, the location should grant the leave. Academic-year appointees that are not in service during the summer, would not need to use leave during their non-service period.

- 16. Will COVID-19 related leaves need to be tracked?**

The University is tracking and reporting the amount of COVID-19 leave taken and the associated payroll expense. The UCPath Center is working on mechanisms to track the type of leaves taken, including the reason. Not all entry and calculations will be automated

in UCPATH or PPS – locations will need to process some manual entry and upload of leaves. Locations will also need to monitor whether an appointee is exceeding their paid leave allotments as the UCPATH Center is not programmed to place caps on the paid leaves.

17. What is the rate of pay to apply when an academic appointee is on EPSL?

The University has decided to pay appointees on EPSL at the appointee's regular rate of pay. Although the law allows employers to place caps on pay for EPSL, the University has decided not to apply these caps.

18. Can extramural funds be used to pay the salaries of academic appointees who cannot work remotely or whose work is limited due to COVID-19?

Please refer to [UCOP's Research and Innovation Office, Research Policy Analysis and Coordination's webpage with current information from extramural funders](#) and consult with your local Contracts & Grants/Sponsored Projects office.

19. Some schools are operating on an alternate day (or other hybrid-attendance) basis. The school is open each day, but students alternate between days attending school in person and days participating in remote learning. The school only permits students to attend school on their assigned in-person attendance days. May eligible academic appointees use EPSL for Reason 5 in these circumstances?

Yes, an eligible academic appointee may use EPSL for Reason 5 on days when the school does not permit their child to attend school in person if the appointee is unable to work or telework for that reason. The school is effectively "closed" to the appointee's child on days that the child cannot attend in person. An eligible appointee may take EPSL on each of their child's remote learning days. As an example, an eligible academic appointee may take EPSL on Mondays, Wednesdays, and Fridays if the school does not permit their child to attend school in person on those days.

20. Some schools are giving parents a choice between having their children attend in person or participate in a remote learning program. If an academic appointee elects remote learning for their child, can that appointee use EPSL for Reason 5 while their child is at home?

No. An academic appointee is not eligible to use EPSL for Reason 5 under these circumstances because the child's school is not "closed" or otherwise unavailable due to COVID-19 reasons; it is open for the appointee's child to attend. If an appointee's child is home because the appointee has chosen for the child to remain home, the appointee is not entitled to EPSL for Reason 5.

21. Will hourly academic appointees receive paid time off to receive the SARS-CoV-2 (COVID-19) vaccine?

Yes, hourly academic appointees may take up to four hours of paid time to obtain each dose of the SARS-CoV-2 (COVID-19) vaccine. Appointees must provide advance notice to their supervisor. If an appointee needs more time for this purpose, the appointee may request EPSL (Reason 3(d)) for the additional time.

22. Can academic appointees use EPAL or EPSL if they get sick from side effects of the SARS-CoV-2 (COVID-19) vaccine?

Yes. If an academic appointee who has EPAL available gets the SARS-CoV-2 (COVID-19) vaccine and gets sick from side effects of the vaccine and is unable to work for that reason, the appointee would be able to use EPAL for that time. Alternatively, appointees may request EPSL (Reason 3(e)) for that purpose. If an appointee has exhausted EPAL and/or EPSL or opts not to use them, the appointee would be able to use accrued sick leave, vacation leave, and/or PTO.