



CAPS UPDATE



What You Need to Know About New COVID-19 Leave Benefits

The California Department of Human Resources (CalHR) recently released information on how two new federally-funded emergency leave programs apply to state employees. Both programs went into effect April 1 and may be used through December 31 for employees impacted by COVID-19. State departments are slowly releasing their own personnel directives to inform employees about the program and how to apply for benefits. But here is CalHR's latest guidance as of this writing:

The first program, **Emergency Paid Sick Leave (EPSL)**, provides full pay at an employee's regular rate for up to two weeks (80 hours for full time employees). To qualify, employees must have worked for the state for one day or more and fall into at least one of six categories:

1. Subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. Advised by a health care provider to self-quarantine due to COVID-19;
3. Experiencing COVID-19 symptoms and are seeking a medical diagnosis;
4. Caring for an individual, subject to an order described in (1) or self-quarantine as described in (2);
5. Caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
6. Experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

For program details, please see [CalHR's complete updated guidance](#) and [frequently asked questions](#) about the program.

The second program, **Emergency Family and Medical Leave Expansion Act (E-FMLA)** applies to employees who have worked for the state for at least 30 days. It provides up to 12 weeks of paid leave for specified reasons related to COVID-19, including to care for your child whose school or daycare is closed due to COVID-19. The first two weeks of E-FMLA are unpaid, although employees can elect to use the two weeks of emergency paid sick leave described above.

For weeks three to 12 of E-FMLA, employees will receive up to two-thirds of their salary – but benefit payments are capped at \$200 per day up to an aggregated total of \$10,000. Employees can elect to use their own leave credits to supplement their E-FMLA. E-FMLA and the standard FMLA are funded under the same endowment. As such, if an employee has used any of their available 12 weeks of FMLA in the preceding 12 months, their available E-FMLA will be limited by the amount used. Please see [CalHR's updated guidance about E-FMLA](#) and answers to [frequently asked questions](#) about the program for more information.

These new benefits cannot be denied by the state unless your classification within your department is deemed exempt. ([Please click here](#) for the latest exempt-classifications list.) If you are interested in participating in either program, please ask your human resources department for benefit applications and department guidelines.

And if you are denied either benefit, but believe you are eligible, [please contact your local CAPS office](#) for assistance.

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Challenging Times Don't Affect Your Rights or CAPS' Assistance to Members

As the COVID-19 fight continues, CAPS members are sacrificing and adjusting to safeguard Californians' health, preserve the state's vast natural resources, protect the environment, and maintain food supply safety and security. Some State Scientists are working longer hours. Many are at makeshift offices from home. Often, colleagues who used to meet in person must now collaborate online to maintain "social distancing."

Despite those changes and many others, remember that CAPS stands ready to help. We're just an email or phone call away to help members navigate the complex federal and state laws, CAPS' detailed labor agreement, and the volumes of policies, rules, and procedures that impact your work.

For example, CAPS members (and all state employees who belong to a union) can request union representation at a meeting they reasonably believe will result in disciplinary action. These "Weingarten Rights" come from a 1975 Supreme Court case (NLRB v. J. Weingarten, Inc.). They apply to investigatory interviews and meetings where the employee has a reasonable belief that formal discipline may result.

State Scientists may request CAPS' representation before or during such an interview. When that occurs, the supervisor has three options:

- Grant the request and delay questioning until the representative arrives.
- Deny the request and end the interview immediately.
- Offer the option of having the interview without representation.

CAPS strongly advises AGAINST members agreeing to the third option because it amounts to sacrificing your union-representation rights.

If your supervisor denies the request for union representation and continues the interview, you have the legal right to refuse to answer, but the right should be executed tactfully. Do not walk out. Instead, continue to request CAPS' representation. Do not answer questions without your CAPS representative present. And remember that information gathered through threats, such as insubordination, may be excluded in any subsequent disciplinary action.

When is a meeting "disciplinary" and therefore subject to Weingarten Rights? Here's a helpful rule of thumb: If you are being questioned about **past** events, the meeting is likely disciplinary. If you are meeting to discuss how to handle matters in the **future**, it's most likely not a disciplinary meeting.

Despite statewide stay-at-home orders, CAPS staff is teleworking full time and remains available to assist members during business hours. If you believe you need to exercise your Weingarten Rights or require other assistance, please contact CAPS at caps@capsscscientists.org or by calling your closest CAPS office: Sacramento, (916) 441-2629; Pasadena, (818) 246-0629; and San Francisco, (415) 861-6343.





In Uncertain Times, You Can Count on CAPS

by Margarita Gordus, President

As our state, our nation, and our world takes measures to mitigate the impact of the novel coronavirus/COVID-19 pandemic, CAPS is more important than ever for thousands of State Scientists who do essential work to protect public health, the environment, the agricultural food supply, and California's natural resources – and whose work is vital to informing the policies the government enacts.

Why? Because during this crisis, CAPS' core mission remains unchanged – and no one else can do it. CAPS was formed by State Scientists for State Scientists, to make sure your voice is heard, and your interests are represented. As decisions are made that impact important scientific programs, your health, crucial job, and your ability to provide for your family, CAPS is here for you.

No other organization can collectively pool State Scientists' strength to protect our common interests. No other organization has decades of experience bargaining for wages, benefits, and workplace conditions on behalf of Unit 10 employees. No other organization has comparably-skilled staff to represent State Scientists in the Capitol, in the workplace, in the courts, and in the media.

That representation will be vital in the coming months as California faces difficult choices. Governor Newsom's decision to issue the first statewide "stay at home" order was based on sound science and, as of this writing in mid-April, appears it will save countless lives by limiting cases of COVID-19. It was the right thing to do.

However, keeping residents at home came with an economic trade off. Businesses were forced to close. A record number of Californians are seeking unemployment benefits. Financial markets logged huge losses.

It is unclear how long it will take for the economy to recover. It is clear, however, that the state budget faces a squeeze. Recently, Governor Newsom told departments to rework their 2020-21 financial plans because the draft budget he proposed in January is no longer operative.

The most pessimistic economists say state and federal finances could be in worse shape than during the 2008-09 recession. The most optimistic think California and the nation can bounce back relatively quickly once people can begin working again.

CAPS will continue to do what it has always done to effectively represent California State Scientists. We need each other, now more than ever.

Regardless, the coming months will certainly test every CAPS service.

Already, our labor relations staff have received numerous calls from members seeking guidance on everything from telework requests to the new emergency leave benefits enacted by Congress. Several media outlets have contacted CAPS with questions about State Scientists' work to fight COVID-19. CAPS' legislative advocates, as always, remain vigilant, lobbying against government policies and legislative proposals that may aim to save money at the cost of our members' interests.

And, of course, CAPS will resume bargaining with CalHR for a new Memorandum of Understanding (MOU) once public health officials and Governor Newsom ease stay at home orders, and we can safely conduct in-person meetings. Although the Bargaining Team cannot meet in person, we have continuously held video conference-call meetings to prepare. Your Bargaining Team is eager to continue bargaining with CalHR, and when we do, we will be ready.

Let me be clear: These are uncertain times, even for government employees who generally enjoy more security than those in the private sector. But you can be certain that CAPS will continue to do what it has always done to effectively represent California State Scientists. We need each other, now more than ever. Thank you for supporting CAPS.



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CAPSule (ISSN 10446230) is published monthly by the California Association of Professional Scientists, 455 Capitol Mall, Suite 500, Sacramento, CA 95814. Periodicals Postage Paid at Sacramento, CA. POSTMASTER: Send address changes to: 455 Capitol Mall, Suite 500, Sacramento, CA 95814-2483.

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COVID-19 Considerations and CAPS Professional Grant Applications

Due to government mandates intended to limit the spread of COVID-19, CAPS strongly advises members to avoid in-person meetings and conferences. With that in mind, the CAPS Member Benefits Committee is not considering Professional Grant applications to attend scheduled in-person meetings or conferences at this time. Such events are unsafe and will likely be cancelled or postponed indefinitely. However, the Committee will continue considering all other grant applications and encourages members to apply.

CAPS leaders understand the Professional Grant Program is a significant benefit of membership. We regret that circumstances require this temporary limitation on awards. We look forward to announcing that career-enhancing events are once again eligible for grant consideration when government officials, following sound science, lift the restrictions behind this temporary policy.

