

Leave under the Families First Coronavirus Response Act's (FFCRA) Emergency Family and Medical Leave Expansion Act (EFMLEA) and Emergency Paid Sick Leave Act (EPSLA)

Effective Date: April 2, 2020 through December 31, 2020.

Definitions:

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is under 18 years of age; or 18 years of age or older who is incapable of self-care because of a mental or physical disability.

“Child care provider” means a provider who receives compensation for providing child care services on a regular basis, and includes a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that is licensed, regulated, or registered under state law and satisfies state and local requirements. The child care provider need not be compensated or licensed if he or she is a family member or friend, such as a neighbor, who regularly cares for the employee's child.

“Subject to a quarantine or isolation order” includes quarantine, isolation, containment, shelter-in-place, or stay-at-home orders issued by and federal, state, or local government that causes the employee to be unable to work even though his or her employer has work the employee could perform but for the order; also includes when a federal, state, or local government authority has advised categories of citizens (e.g., certain age ranges or certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing the employee to be unable to work even though his or her employer has work for them.

Emergency Expanded FMLA Leave

Eligible Employee: All current employees who have been employed with _____ County for at least 30 days and are actively scheduled for work are eligible for leave. Employees laid off or otherwise terminated on or after March 1, 2020, who are rehired on or before December 31, 2020, are eligible for leave upon reinstatement if they had previously been employed with _____ County for 30 or more of the 60 calendar days prior to their layoff or termination. _____ County reserves the right to exclude an employee who is a health care provider or an emergency responder, in accordance with FFCRA/EFMLEA provisions.

Reason for Leave: Inability to work or telework due to a need to care for the employee's child because the child's school or place of care has closed, or when the regular child care provider is unavailable, due to a declared public health emergency with respect to COVID-19.

Amount of Leave: Eligible employees may take up to 12 weeks of leave between April 1, 2020 and December 31, 2020. This time is included in (not in addition to) the total FMLA leave entitlement of 12 weeks in a 12-month period. For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy. An employee is limited

to a maximum of 12 weeks of leave during the period of April 2, 2020 to December 31, 2020, even if it spans two 12-month periods under FMLA.

[The following section on Intermittent Leave is optional; intermittent leave is allowed only when both employer and employee agree to it:

Intermittent Use of Leave: Employees may take expanded FMLA leave intermittently and in any increment agreed to with their supervisor. For example, an employee may only need 4 hours per day of leave to care for his or her child or may only need to do so on Tuesdays and Thursdays. Supervisors and employees should be flexible in scheduling wherever possible.]

Pay During Leave: Leave is unpaid for the first 10 days. Employees may use accrued paid vacation, sick or personal leave during this time. The employee may also choose to use paid leave provided under the EPSLA, described below. After the first 10 days, leave is paid at two-thirds (2/3) of the employee's regular rate of pay for the number of hours the employee would have been scheduled to work. Pay will not exceed \$200 per day and \$10,000 in total (\$12,000 in total if using emergency paid sick leave for the first two weeks).

Hours for employees with varying hours will be calculated as follows:

- If the employee has worked 6 months or more, the average number of hours the employee was scheduled to work per day over the 6-month period ending on the date on which the employee takes leave, including any leave taken.
- If the employee has worked less than 6 months, the number of hours agreed upon per day at the time of hire, or if no agreement, the average number of hours the employee was scheduled to work per day over the entire period of employment, including any leave taken.

[Optional: Employees may supplement the two-thirds pay with any accrued paid (vacation or annual leave, etc.) the employee may have, not to exceed 100% of regular pay. For example, an employee may choose to use one-third of an hour of paid leave for each hour of expanded FMLA leave taken to reach 100% of regular pay per hour.]

Benefits During Leave: While an employee is on leave, the County will continue the employee's health insurance at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must make arrangements to continue to make this payment.

If the employee contributes to a life insurance or disability plan, the County will continue payroll deductions while the employee is on paid leave. During unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain these benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

Procedure for Requesting Leave: Employees must provide written notice of the need for leave to their supervisor as soon as practicable. Verbal notice will be accepted until written notice can be provided.

Notice of the need for leave must include:

- Employee name.
- Dates for which leave is requested.
- The name and age of the child or children being cared for.
- The name of the school(s), place(s) of care, or child care provider(s) that closed or became unavailable due to COVID-19 related reasons
- A statement that no other suitable person is available to care for the child or children during the period of requested leave. For children over the age of 14, a statement indicating the special circumstances that require the employee to provide care during daylight hours.
- A statement that the employee is unable to work due to the need to care for the child or children.

The County may require an employee on leave to report periodically on the employee's status and intent to return to work.

Employee Status After Leave: Like other leave under the FMLA, an employee who takes leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms in accordance with the FMLA. The County may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time leave is requested of their status as a key employee.

Emergency Paid Sick Leave

Eligibility: All current full- and part-time employees scheduled but unable to work (or telework) due to one of the following reasons for leave:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual* who is subject to either number 1 or 2 above.
5. The employee is caring for his or her child if the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the secretary of health and human services in consultation with the secretary of the treasury and the secretary of labor.

*An "individual" is defined as an immediate family member, roommate or similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she self-quarantined or was quarantined.

Furloughed employees are not eligible as there is no work available from which to take leave.

Amount of Paid Sick Leave: Eligible full-time employees have up to 80 hours of paid sick leave available to use for qualifying reasons. Eligible part-time employees are entitled to the number of hours worked, on average, over a two-week period.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- If the employee has worked 6 months or more, the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type.
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

[The following section on Intermittent Leave is optional; intermittent leave is allowed only when both employer and employee agree to it:

Intermittent Use of Leave: When working from home, employees may take emergency paid sick leave intermittently in any increment agreed to with their supervisor. For example, an employee may only need 4 hours per day of leave to care for his or her child or may only need to do so on Tuesdays and Thursdays. Supervisors and employees should be flexible in scheduling wherever possible.

Employees working onsite may only take intermittent leave for reason 5 above, to care for the employee's child when the school or place of care is closed, or the caregiver is unavailable due to COVID-19-related reasons. Because all other reasons for emergency paid sick leave could potentially expose an employee or others in the workplace to the virus, once an employee begins taking leave for reasons 1-4 above, the employee must use the permitted days of leave consecutively until the employee no longer has a qualifying reason to take emergency paid sick leave.]

Rate of Pay: Emergency sick leave will be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 will be compensated at two-thirds their regular rate of pay, or minimum wage, whichever is greater. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-3 above.
- \$200 per day and \$2,000 in total for leave taken for reasons 4-6 above.

Interaction with Other Paid Leave: The employee may use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above.

Employees on expanded FMLA leave under this policy may use emergency paid sick leave concurrently with that leave. Emergency paid sick leave may also be used when an employee is on leave under traditional FMLA for his or her own COVID-19-related serious health condition or to care for a qualified family member with such a condition.

Procedure for Requesting Emergency Paid Sick Leave: Employees must notify their supervisor of the need and specific reason for leave under this policy. A form will be provided to all employees. Verbal notification will be accepted until practicable to provide written notice.

Documentation supporting the need for leave must be included with the leave request form, including:

- A copy of the federal, state or local quarantine or isolation order related to COVID-19 applicable to the employee or the name of the government entity that issued the order.
- Written documentation by a health care provider advising the employee to self-quarantine due to concerns related to COVID-19 or the name of the provider who advised the employee.
- The name and relation of the individual the employee is taking leave to care for who is subject to a quarantine or isolation order or is advised to self-quarantine.
- The name and age of the child or children being cared for; the name of the school, place of care, or child care provider that closed or became unavailable; and a statement that no other suitable person is available to care for the child during the period of requested leave.
- For children over age 14, a statement indicating the special circumstances that require the employee to provide care during working hours.

Once emergency paid sick leave has begun, the employee and his or her supervisor must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

Carryover: Emergency paid sick leave under this policy will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

No Penalty: No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave.

Please contact _____ with any questions.

Employee Documentation in Support of Leave under the Emergency Family and Medical Leave Expansion Act (EFMLEA)

Employee Name: _____

Beginning Date of Leave: _____

Ending Date of Leave: _____

Name of Minor Child: _____

Name of school, place of care, or child care provider that has closed or become unavailable due to COVID-19: _____

Employee Statements (initial each statement):

_____	I am unable to work because of the need to care for my minor child whose school or place of care has been closed or childcare provider is unavailable for reasons related to COVID-19.
_____	No other suitable person is available to care for my minor child during the period of leave.
_____	But for the need to care for my child, I would be able to work either at the workplace or by telework.
_____	During the leave period, no other suitable person will be caring for my child.

Signature of Employee: _____

Date: _____

Employee Documentation in Support of Leave under the Emergency Paid Sick Leave Act (EPSLA)

Employee Name: _____

Beginning Date of Leave: _____

Ending Date of Leave: _____

Qualifying Reason for Leave:

_____	I am subject to a quarantine order related to COVID-19. I have attached a copy of the order, or the governmental entity issuing the order is: _____.
_____	I have been advised by a health care provider to self-quarantine due to concerns about COVID-19. I have attached written documentation from my health care provider, or the name of my health care provider is: _____.
_____	I am experiencing symptoms of COVID-19 and am seeking medical diagnosis.
_____	I am caring for an individual* who is subject to a quarantine order or has been advised to self-quarantine due to COVID-19. Name of individual: _____. Relationship to employee: _____.
_____	I am caring for my minor child because the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions (complete information below).

** "Individual" means an immediate family member, roommate, or similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she self-quarantined or was quarantined.*

COMPLETE THIS SECTION FOR LEAVE TO CARE FOR MINOR CHILD:

Name of Minor Child: _____

Age of Child: _____ If over 14, state the special circumstances that require the employee to provide care during working hours: _____

Name of school, place of care, or child care provider that has closed or become unavailable due to COVID-19: _____

Employee Statements (initial each statement):

_____	I am unable to work because of the need to care for my minor child whose school or place of care has been closed or the childcare provider is unavailable for reasons related to COVID-19.
_____	No other suitable person is available to care for my minor child during the period of leave.
_____	But for the need to care for my child, I would be able to work either at the workplace or by telework.
_____	During the leave period, no other suitable person will be caring for my child.

Signature of Employee: _____

Date: _____