



EL PASO COUNTY DEPARTMENT OF HUMAN RESOURCES

Emergency Paid Sick Leave & Expanded Family and Medical Leave (In Accordance with the Families First Coronavirus Response Act)

Adopted Date: August 31, 2020

Effective Date: April 1, 2020

Expiration Date: December 31, 2020

In accordance with the **Families First Coronavirus Response Act (FFCRA)**, this policy outlines the requirements for employees seeking to use paid sick leave and/or expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

I. Definitions

- A. "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:
 - 1. Under 18 years of age.
 - 2. 18 or older and incapable of self-care because of a mental or physical disability.
- B. "Child care provider" means a provider who receives compensation for providing child care services on a regular basis, including:
 - 1. A center-based child care provider.
 - 2. A group home child care provider.
 - 3. A family child care provider (one individual who provides child care services for fewer than 24 hours per day, as a sole caregiver, and in a private residence).
 - 4. Other licensed provider of childcare services for compensation.
 - 5. A childcare provider that is 18 years of age or older who provides child care services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece or nephew of such provider, at the direction of the parent.
- C. "School" means an elementary or secondary school.

II. Emergency Paid Sick Leave

- A. All County employees are eligible for paid sick leave for COVID-19 related reasons outlined below, regardless of the length of time the employee has been employed by the County.
- B. All current full-time and part-time employees currently scheduled, but unable to work (or telework) due to one of the following reasons qualify for Emergency Paid Sick 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 child's school or place of care has been closed, or the child care provider of such child is unavailable, due to COVID-19

precautions; or

6. The employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

C. Amount of Emergency Paid Sick Leave

1. Full-time employees are entitled to 80 hours of paid sick leave.
2. Part-time employees are entitled to the average number of hours the employee is scheduled to work over a two-week period.
3. For employees with varying hours, one of two methods for computing the number of hours paid will be used:
 1. 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.
 2. If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

D. Increments and Intermittent Use of Leave

1. Per the regulations, because emergency paid sick leave could potentially expose an employee or others in the workplace to the virus, employees must either use the full amount of paid sick leave or use it in full-day increments until the reason for leave is over and it is safe for the employee to return to work.

E. Interaction with Other Paid Leave

1. Employees are not required to use other accrued paid time off in order to use emergency paid sick leave under this policy.

F. Carryover

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

G. Job Protections

1. 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.

H. Procedure for Requesting Emergency Paid Sick Leave

1. All employees requesting emergency paid sick leave must provide written notice of the need for leave to their manager as soon as practicable. Notification forms are available to all employees via the County's intranet and via the HR Department and shall accompany the request. Verbal notice will otherwise be accepted until written notice can be provided. Thereafter, supervisors must contact Human Resources to coordinate such request.
2. Documentation supporting the need for leave must be included with the leave request form, such as:
 1. 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.
 2. 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.
 3. 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.
 4. 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.

3. Once leave begins, the employee and his or her manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to return to work.

III. Expanded Family and Medical Leave (FMLA)

- A. All current full-time and part-time employees who have been employed for at least 30 calendar days at the time of the request, and who are currently scheduled, but unable to work (or telework), due to caring for his or her child if the child's school or place of care has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions are eligible under this section of the policy.
- B. Duration of Leave
 1. Employees will have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated above. This time is included in, and 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.
- C. Pay During Leave
 1. Leave will be unpaid for the first 10 days of leave; however, employees may use accrued paid vacation, sick or personal leave during this time. The employee may also elect to use the paid sick leave provided under the Emergency Paid Sick Leave provision in Section III of this policy.
- D. Increments and Intermittent Use of Leave
 1. Employees may take expanded family and medical leave on an intermittent basis, and in any increment agreed upon with their manager. **For example**, an employee may only need four (4) hours per day of leave to care for his or her child, or may only need to do so on Tuesdays and Thursdays. Managers and employees shall be flexible in scheduling wherever possible based on their operational needs.
 2. For those not teleworking and currently working onsite, an employee may only take intermittent leave to care for his or her child when the school or place of care is closed, or the caregiver is unavailable due to COVID-19-related reasons (Section III. 5 above).
- E. Rate of Pay
 1. After the first 10 days of use, expanded family and medical leave used in accordance with the terms of this policy will be paid at the employee's regular rate of pay per Commissioners Court order (March 30, 2020).
- F. Interaction with Other Paid Leave
 1. Employees on expanded family and medical leave under this policy may use emergency paid sick leave concurrently with expanded family and medical 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.
- G. Employee Status After Leave
 1. Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. However, should the position no longer exist due to economic conditions or changes in the

County's operating conditions, the County shall make reasonable efforts to restore the employee to a position equivalent to the position the employee held when the leave commenced, with equivalent employment benefits, pay, and other terms and conditions of employment. If the reasonable efforts fail, the County shall contact the employee when an equivalent position becomes available.

IV. Employee Status and Benefits During Leave

1. While an employee is on leave, the County will continue the employee's health benefits during the leave period 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 continue to make this payment per instructions from the HR department.
2. If the employee contributes to a life insurance or disability plan, the County will continue making payroll deductions while the employee is on paid leave. During any portion of 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 such 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.

For additional information, please contact the HR department with any questions.