

# COUNTY OF SAN MATEO FAMILIES FIRST CORONAVIRUS RESPONSE ACT LEAVE POLICIES

## **COVID-19 Emergency Sick Leave:**

### What is it?

Paid sick leave for certain reasons associated with the COVID-19 Public Health Emergency.

COVID-19 Emergency Sick leave is provided pursuant to the Families First Coronavirus Response Act: Emergency Paid Sick Leave Act. However, the County has amended this policy and is expanding the application of County COVID-19 Emergency Sick Leave to May 1, 2021. This extension goes beyond the December 31, 2020, expiration of the Families First Coronavirus Response Act: Emergency Paid Sick Leave Act. As a result, leave provided after December 31, 2020 is not required by the Families First Coronavirus Response Act: Emergency Paid Sick Leave Act, but will be provided pursuant to the terms and conditions set forth in this policy. If State or Federal legislation regarding COVID-19 sick leave is enacted prior to the expiration of this policy on May 1, 2021, the County may revoke or revise this policy as appropriate.

Leave taken as COVID-19 Emergency Sick Leave is a new and temporary form of sick leave and is separate and distinct from regular County provided sick leave.

### Who is eligible?

From April 1, 2020 through May 1, 2021, County employees can take COVID-19 Emergency Sick Leave if they are unable to work or telework for the following reasons:

- (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 a Federal, State, or local quarantine or isolation order related to COVID-19 or been advised by a health care provider to self-quarantine due to concerns related to COVID-19 order as described in subparagraph (1) or has been advised as described in paragraph (2) of subsection (a), above.
- (5) The employee is caring for their child (under 18 years of age or an adult with a mental or physical disability who is incapable of self-care because of that disability) whose school or place of care has been closed, or the child's child-care provider 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.

Due to the nature of the COVID-19 Pandemic, and as set forth in the Families First Coronavirus Response Act: Emergency Paid Sick Leave Act, the County may deny this leave to any employee who is a health care provider or emergency responder in the discretion of the County in order to provide essential services during the Public Health Emergency.

#### How long is the leave?

Each employee will receive two weeks worth of COVID-19 Emergency Sick Leave, not to exceed a total of 80 hours. Part time employees will receive a pro-rated amount based on average hours worked.

The leave can be taken all at once or intermittently. However, intermittent leave may not be appropriate where employees are quarantined or ill or taking care of someone who is quarantined or ill. In addition, intermittent leave requires the permission of the department. The employee and the department should work together to develop a schedule for intermittent leave that allows the employee to take the leave when reasonable but still meets the needs of the department. Employees must not return to work until medically advisable based on the most recent information from the Center for Disease Control and the employee or family member's healthcare provider.

Any employee who is unable to work due to their own laboratory confirmed COVID-19 illness shall utilize their eighty (80) hours of federal Families First Coronavirus Response Act (FFCRA) emergency paid sick leave, as outlined above. If necessary, the County will grant an additional forty (40) hours of COVID 19 Sick Leave Hours upon certification from a Healthcare provider of the need for additional time due to the employee's own laboratory confirmed COVID 19. If after exhausting all of those leaves, an employee's Healthcare provider determines and certifies that an employee needs additional time off, the County, on a case by case basis, may grant an additional forty (40) hours of COVID-19 Sick Leave Hours.

COVID-19 Emergency Sick Leave will expire on May 1, 2021, or sooner if Federal or State legislation creates a new type or allocation of COVID 19 related sick leave. After May 1, 2021, any unused leave will not carryover or be cashed out and does not convert to retiree health medical benefits at the time of retirement.

#### What does it pay?

Employees will receive their regular rate of pay.<sup>i</sup>

#### Employee Benefits

Employees will continue to receive their regular elected benefits during the time they are covered under COVID-19 Emergency Sick Leave. Benefits will continue to be deducted from their bi-weekly paycheck. In the event deductions do not occur, employees will be billed for their portion of benefits only.

Employees will continue to receive all regular accrual of other paid leave while using COVID-19 Emergency Sick Leave.

### Other forms of leave?

Employees who are eligible for COVID-19 Emergency Sick Leave for one of the reasons listed above, may also be eligible for other forms of leave such as FMLA/CFRA or regular County sick leave. Unpaid forms of leave such as FMLA/CFRA will run concurrently with COVID-19

Emergency Sick Leave, where applicable. For more information on other forms of leave, please see the County's policies for [Leave for Employee's Own Health Condition](https://hr.smcgov.org/leave-employees-own-health-condition) <https://hr.smcgov.org/leave-employees-own-health-condition> and [Leave for My Family Member's Health Condition](https://hr.smcgov.org/leave-employees-own-health-condition).

### How do I request the leave?

- Procedures for Requesting and Approving COVID 19 Emergency Sick Leave.
  - When the requirement for sick leave is known to the employee in advance of the absence, the employee shall request authorization for COVID 19 Emergency Sick Leave at such time. In all other instances the employee shall notify their supervisor as promptly as possible. Employees shall provide notice in the manner set forth by their supervisor, manager or division/department policy or practice. (e.g. phone call, email, etc.)
  - The department may require the employee to provide documentation of the need for leave.

## **COVID-19 Emergency FMLA Leave for School and Child Care Closure:**

### What is it?

The Family Medical Leave Act (FMLA) provides eligible employees with up to 12 workweeks of job protected leave for specified reasons.

Due to the COVID-19 Emergency, the U.S. Congress amended the FMLA to extend leave to employees who need time off from work to care for a child due to a COVID-19 related school closure or child care closure.

The County provides this leave pursuant to the Families First Coronavirus Response Act: Emergency Family and Medical Leave Expansion Act. However, the County has amended this policy and is expanding the application of County COVID-19 Emergency Family and Medical Leave For School and Child Care Closure. This extension goes beyond the December 31, 2020, expiration of the Families First Coronavirus Response Act: Emergency Family and Medical Leave Expansion Act. As a result, leave provided after December 31, 2020 is not required by the Families First Coronavirus Response Act: Emergency Family and Medical Leave Expansion Act, but will be provided pursuant to the terms and conditions set forth in this policy. If State or Federal legislation regarding COVID-19 Family and Medical Leave is enacted prior to the expiration of this policy on May 1, 2021, the County may revoke or revise this policy as appropriate.

### Who is eligible?

Employees are eligible for up to 12 weeks of job-protected Public Health Emergency FMLA Leave if the following requirements are met:

- (1) The employee has worked for the County for at least 30 calendar days;

- (2) The employee is unable to work (or telework) due to a need to care for their child (under 18 years of age or an adult with a mental or physical disability who is incapable of self-care because of that disability) whose school or place of care has been closed, or whose child care provider is unavailable due to a COVID-19 emergency declared by either a Federal, State, or local authority; and
- (3) The employee provided reasonable notice of the need for the leave.
- (4) The employee has not already exhausted their FMLA leave for the calendar year.

Due to the nature of the COVID-19 Pandemic, and as set forth in the Emergency Family and Medical Leave Act, the County may deny this leave to any employee who is a health care provider or emergency responder in the discretion of the County in order to provide essential services during the Public Health Emergency.

#### Is it paid?

The first 10 days of Emergency FMLA Leave may consist of unpaid leave unless the employee elects to utilize accumulated leaves, including COVID-19 Emergency Sick Leave set forth above.

For the remaining 10 weeks, an employee is entitled to paid leave at two-thirds of the employee's regular rate of pay. However, paid leave is subject to a cap of \$200 per day and \$10,000 total.

Employees can choose to supplement the \$200 per day cap on compensation with other accrued paid leave.

Employees may also be eligible for partial salary replacement through Unemployment Insurance. See the Employment Development Department's (EDD) COVID-19 webpage for additional information. [https://www.edd.ca.gov/about\\_edd/coronavirus-2019.htm](https://www.edd.ca.gov/about_edd/coronavirus-2019.htm)

#### How long is the leave?

FMLA provides up to 12 weeks of unpaid, job protected leave per year. (For purposes of this calculation the County uses a calendar year.) If the leave is taken intermittently, the hours used will be tracked and employees will have a maximum number of hours to use per year based on the average number of hours the employee works per week multiplied by 12 weeks. Intermittent leave requires the permission of the department, and the employee and the department should work together to develop a schedule for intermittent leave that allows the employee to take the leave when reasonable but still meets the needs of the department.

The provisions of this policy and the leave it provides expire on May 1, 2021, or sooner if Federal or State legislation enacts the same or similar leave for 2021.

#### How do I request FMLA leave?

Employees should notify their supervisors or managers of the need for leave as soon as possible and follow the procedures below.

After notifying their supervisor or manager, an employee must request this type of leave in

Workday. To find out how to request a leave in Workday, visit the [Leave of Absence Quick Reference Card \(QRC\)](#) on the [Workday Connect](#) resource site.

The County may require the employee to provide documentation of the need for leave.

#### Reinstatement after leave

Employees out on Emergency Family and Medical Leave are entitled to reinstatement to their prior position unless the position held by the employee does not exist due to economic conditions or other changes in operating conditions caused by a public health emergency during the period of leave.

If the County is unable to restore the employee to an equivalent position to the employee's prior position, the County will notify the employee if an equivalent position becomes available within 1-year of either, the date the public health emergency concludes or date which is 12 weeks after the employee started their Emergency Family and Medical Leave, (which ever date is earlier). Notification shall be by regular mail to the employees address on file.

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<sup>i</sup> Provision of full pay for COVID 19 Emergency Sick Leave requires ratification by the Board of Supervisors to become effective.