



County of San Mateo

Inter-Departmental Correspondence

Department: HUMAN RESOURCES

File #: 20-209

Board Meeting Date: 4/14/2020

Special Notice / Hearing: None
Vote Required: Majority

To: Honorable Board of Supervisors

From: Rocio Kiryczun, Human Resources Director

Michelle Kuka, Employee Relations Manager

Subject: Resolution Ratifying the Human Resources Department's COVID-19 Public Health
Emergency Employment Policy

RECOMMENDATION:

Adopt a resolution ratifying and adopting the Human Resources Department's COVID-19 Public Health Emergency Employment Policy and the employment terms and conditions therein until May 30, 2020.

BACKGROUND:

Due to the COVID-19 Public Health Emergency, the structure and routine of the County's workplace has drastically changed. Notwithstanding the Health Officer's initial "Shelter-in-Place" Order (which was extended by the Health Officer on March 31st through May 3, 2020), a significant portion of the County's workforce has been called into action to deliver on-site essential services to County residents. Other employees have been sent home to provide essential services or work that is part of the County's normal business activities via telework. For some employees, the ability to use leave while their services are urgently needed has been limited, while for others, there may be an increased need for leave due to potential illness or exposure for themselves or their family members. In addition, the closure of schools and child care centers have impacted employees' ability to work on a consistent basis. Some County employees who serve in the National Guard or the military reserves may be called to service to address the COVID-19 Public Health Emergency. Finally, all County employees are subject to being called to action by the County as disaster service workers.

The County seeks to address these issues while addressing the public's most essential needs during the emergency.

DISCUSSION:

The Human Resources Department, after conferring with the County employee labor representatives, recommends the adoption of the attached COVID-19 Public Health Emergency

Employment Policy.

A summary of the policy's terms and conditions is set forth below:

- Telework and Compensation: Employees who are not required for on-site essential work will be assigned Telework. Those employees in positions where Telework is not typical and whose ability to perform their regular job duties is limited while in Telework status, will be assigned non-regular work duties when feasible such as special projects or trainings. Employees in a Telework status will continue to be paid at their regular rate of pay so long as they perform the work that is assigned and remain ready and available to work on-site (whether at their regular or an alternate location) performing essential duties or as disaster service workers as directed by their department head. Extra Help employees will be assigned Telework on a case by case basis.
- Flexible Hours: At the department head's discretion, employees can flex their hours and work alternative schedules. This may help employees continue to work while addressing personal responsibilities caused by the COVID-19 Public Health Emergency, such as caring for children due to school closures.
- Use of Leave: Employees who are not available to work may request to use applicable leave, including the federal Families First Coronavirus Response Act (FFCRA) emergency paid sick leave, FFCRA emergency paid FMLA leave, or other accrued County-provided leaves in order to receive compensation. For employees who are at high risk of complications (as set forth by the CDC) due to COVID-19 and as a result do not want to work on-site, the County will try to find reasonable accommodations such as Telework when feasible.
- FFCRA COVID-19 Emergency Sick Leave and Expanded Family and Medical Leave: The Federal Government recently enacted the Families First Coronavirus Response Act (FFCRA) which provides up to 2 weeks of paid sick leave to employees for COVID-19 related reasons and paid FMLA leave for school and child care closures related to COVID-19 from April 1, 2020 through December 31, 2020. In addition, for any employee who is unable to work due to their own laboratory confirmed COVID-19 illness and has exhausted their 2 weeks of FFCRA emergency paid sick leave, 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 leave hours, 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.

The FFCRA places a cap on the amount of compensation an employee may receive per day for these leaves. The County's Policy will not have a cap on the daily rate of pay for the COVID-19 Emergency Sick Leave and employees will receive their regular rate of pay. The Federal caps on compensation will apply to the Expanded Family and Medical Leave provided by the FFCRA.

- Essential Worker COVID-19 Leave Hours: Employees who are performing essential work **and** who are required to report to the workplace during the Term of the Policy will receive Essential COVID-19 Leave Hours to use as time off at a later time. Such employees will

accrue thirty (30) minutes of Essential COVID-19 Leave Hours for every one (1) hour of regular time or overtime worked on-site, up to a maximum of two-hundred (200) hours.

- Advancement of Accrued Leave: If employees exhaust their FFCRA Emergency Paid Sick Leave, FFCRA FMLA leave, and/or their own accrued leave balances, then employees may request to advance up to an additional 80 hours of sick or vacation leave during the Public Health Emergency to address COVID-19 related issues.
- Temporary Lift on Cap for Accrued Vacation: For employees who are near the maximum accruals for vacation but who cannot take time off during the public health emergency because they are performing essential work, the County will raise the vacation leave caps by as much as 80 hours.
- Military Leave Pay: The County currently pays the difference between employee's military salary and County salary for those called to active military duty in support of the Global War on Terrorism. The policy would extend these provisions to County employees called to active military duty in response to the COVID-19 Emergency.
- Term: Pursuant to federal law, the FFCRA leave provisions apply from April 1, 2020 through December 31, 2020. The remaining terms of the policy are effective from the current pay period through May 30, 2020 or until the end of the County of San Mateo Shelter in Place Order, whichever is sooner. Upon discontinuation of this emergency policy, County practices and policies will return to procedures that were in place prior to this health emergency.

These recommendations are in alignment with the County's goals of responding to the COVID-19 Emergency while maintaining fiscal sustainability, equity and competitiveness with the Bay Area workforce market.

The COVID-19 Emergency Employment Policy is only applicable to employees in positions represented by the following labor organizations: Deputy Sheriff's Association (DSA), Law Enforcement Unit (LEU), Organization of Sheriff's Sergeants (OSS), Probation Detention Association (PDA), San Mateo County Council of Engineers (SMCCE) and Building Trades and Construction (BCTC) as well as Management, Attorney and Confidential employees. Extra help and limited term employees who are in classifications in which regular employees holding those classifications are subject to the DSA, LEU, OSS, PDA, SMCCE and BCTC collective bargaining agreements and Management, Attorney or Confidential resolutions are also covered under this policy.

The COVID-19 Emergency Employment Policy was intended to apply to all County employees and the County provided the policy to all labor organizations prior to presentation to this Board. However, representatives from the American Federation of State, County and Municipal Employees (AFSCME), the California Nurses Association (CNA), the Service Employees International Union (SEIU), and the Union of American Physicians and Dentists (UAPD) rejected the policy. The County will continue to meet and confer with those unions on these issues.

For the most part, cost estimates associated with these benefits are not direct/hard costs but rather represent the value of hours, e.g., COVID-19 Leave Hours. The cost estimates exclude non-productive work hours as they are already accounted for in department budgets as well as advanced leave hours since these hours are covered by the employee if utilized.

County Counsel has reviewed and approved the resolution as to form.

Financial Impact on County's Retirement System

Government Code Section 31515.5 requires the County to provide the estimated financial impact that proposed benefit changes or salary increases would have on the funding status of SamCERA's retirement fund, the County's retirement system. There are no salary increases and the County's actuary has determined that the increased amounts of paid leave will not increase the unfunded liability.

FISCAL IMPACT:

The cost/value of these additional benefits are estimated at \$7.3M.