

## **EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT POLICY**

**Effective April 1, 2020, through December 31, 2020**

### **A. Statement of Policy.**

Under Division C of the Families First Coronavirus Response Act (“FFCRA”), known as the Emergency Family and Medical Leave Expansion Act, eligible employees may request up to twelve (12) weeks of emergency family and/or medical leave for qualifying reasons related to COVID-19 with job protection and no loss of accumulated service provided the employee meets the conditions outlined in this policy. This policy is temporary and is in effect from April 1, 2020 through December 31, 2020.

The expanded Family and Medical Leave Act (“FMLA”) leave provided by this policy is not in addition to FMLA leave available for other FMLA qualifying conditions, such as an employee’s serious health condition, a serious health condition of an employee’s immediate family member (spouse, child or parent), upon the birth, adoption or foster placement of a child or for certain military leave related reasons. The 12-month period applicable for traditional FMLA leave is applicable to the leave requested by employees under this policy.

### **B. Definitions.**

As used in this policy, the following terms and phrases shall be defined as follows:

1. “Qualifying need related to COVID-19”: employee is unable to work (or telework) due to a need for leave to care for the son or daughter of such employee if the school or place of care has been closed or the child care provider of such son or daughter is unavailable due to COVID-19.
2. “Son or daughter” 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.
3. “Telework” means work the County permits or allows an employee to perform while the employee is at home or at a location other than the employee’s normal workplace. An employee is able to telework if (a) there is work available for the employee to perform; (b) the employee is permitted to perform that work from the employee’s alternative location; and (c) there are no extenuating circumstances (such as serious COVID-19 symptoms) that prevent the employee from performing the work. Telework may be performed during normal hours or at other times agreed by the County and the employee.

**C. Eligibility.**

To be eligible for leave under this policy, an employee must meet all of the following conditions:

1. Employed by the County for at least thirty (30) calendar days.
2. Otherwise be entitled to FMLA leave during the 12 month period defined by the County's FMLA policy. For clarity, if an employee has already taken FMLA leave during the 12 month period, the amount of leave available under this policy shall be reduced by such amount of leave already taken.
3. Spouses who are both employed by the County are jointly entitled to a combined leave total of twelve (12) weeks (rather than twelve (12) weeks each) for childcare purposes. Employees who are both employed by the County may not take leave under this policy at the same time.
4. An employee who is a health care provider or an emergency responder shall be excluded from the application of this policy pursuant to the FFCRA. An "emergency responder" is defined in 29 CFR Part 826, and each appointing authority shall determine in writing the positions that meet the definition and are excluded from the application of this policy. Copies of the written determinations shall be on file with Human Resources and the individual office or department and shall be available for review upon request.

**D. Use of Leave.**

Leave under this policy is limited to a qualifying need related to COVID-19. An employee has a need for leave for this purpose only if no suitable person is available to care for the employee's son or daughter during the period of such leave. Employees taking leave under this policy must be present with the son or daughter during regular work hours and otherwise act in a manner consistent with the need for such leave.

**E. Procedures for Requesting Emergency Family and Medical Leave**

Requests for FMLA leave must be submitted in writing as soon as practicable prior to the commencement of the leave. The employee must follow the regular reporting procedures for each absence.

**F. Compensation.**

Employees eligible for expanded FMLA pursuant to the FFCRA in order to care for the employee's son or daughter as outlined in Paragraph D above shall be eligible for to up to twelve (12) weeks of expanded family and medical leave. The first two (2) weeks of emergency family and medical leave under this policy shall be unpaid, but the employee shall be entitled to up to two (2) weeks (not to exceed eighty (80) hours) of paid emergency

sick leave under the FFCRA, followed by up to ten (10) weeks of paid emergency family and medical leave. The paid emergency sick leave and paid emergency family and medical leave shall be paid at two-thirds of the employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work (with a maximum payment of \$200 per day and \$12,000 total). If an employee has previously exhausted the two (2) weeks of paid emergency sick leave, the employee may elect to use available personal leave or vacation leave concurrently with the initial two (2) weeks of unpaid expanded family and medical leave taken pursuant to this policy, for which the employee would receive full pay, instead of the two-thirds pay required by the FFCRA. Additionally, the County and an employee may agree to supplement the two-thirds pay under this policy with one-third pay from available personal leave or vacation leave, so that the employee receives the full amount of the employee's normal pay.

**G. Intermittent/Reduced Schedule Leave.**

An employee may take FMLA leave on an intermittent or reduced work schedule basis for a qualifying need related to COVID-19 with the employer's approval. Requests for intermittent or reduced schedule FMLA leave must be submitted in writing as soon as practicable.

**H. Reinstatement.**

Employees who take leave under this policy will be reinstated to the same or a similar position upon return from leave except that if the position that the employee occupied prior to taking FMLA leave is not available, the employee will be placed in a position which entails substantially equivalent levels of skill, effort, responsibility, and authority and which carries equivalent status, pay, benefits, and other terms and conditions of employment as the position the employee occupied prior to taking FMLA leave. The determination as to whether a position is an "equivalent position" will be made by the Employer.

**I. Documentation.**

An employee requesting leave under this policy is required to provide documentation containing the following information prior to taking leave under this policy: (1) employee's name; (2) date(s) or which leave is requested; (3) qualifying reason for the leave; (4) a statement that the employee is unable to work or telework because of the qualifying reason for leave; and (5) additional information supporting the qualifying reason, as follows: the name of the son or daughter being cared for, the name of the school, place of care, or care provider that has closed or become unavailable, and a representation that no other suitable person will be caring for the son or daughter during the period of the leave.

The County will provide a form for the employee to provide the documentation required herein. Failure to obtain or submit the form shall not relieve the employee of the obligation to submit documentation required herein.

**J. Retaliation.**

Employee will not be retaliated against for exercising their rights to leave in accordance with this policy.

**K. Expiration.**

This policy is temporary and will be effective April 1, 2020 and expire on December 31, 2020.