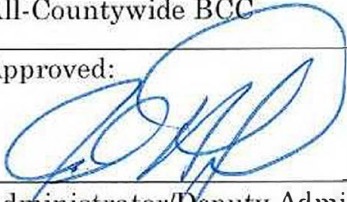


Okaloosa County Board of County Commissioners

Administrative Directive



Title: Families First Coronavirus Response Act		
Special Order #: BCC CAO-20-05	Effective Date: 3-30-2020 AMMENDED 4-1-2020, 4-13-2020	Amends: BCC CAO 20-05
Organizational Unit: All-Countywide BCC	PDMS Index #: BCC CAO 20-05	Accreditation Standards: N/A
Approved: 		
Administrator/Deputy Administrator		Chairman of the Board

I. Purpose:

To comply with the Families First Coronavirus Response Act (FFCRA) as issued by the U.S. Department of Labor's Wage and Hour Division in an effort to limit the spread of COVID-19. The new mandates associated with the FFCRA provide for relief benefits under two different categories:

1. Mandated Emergency Paid Sick Leave Act (EPSLA)
2. Mandated extension of benefits as provided through the Emergency Family Medical Leave Expansion Act (EFMLE)

II. Policy:

The Families First Coronavirus Response Act (FFCRA) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An eligible employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of fully or partially paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1, #2 and #3, up to \$511 daily and \$5,110 total;
- 2/3 for qualifying reasons #4 and 6, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks total of combined paid sick leave and expanded family and medical leave paid at 2/3 their regular rate of pay for qualifying reason #5, up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

ELIGIBILITY

Employees are eligible for up to two weeks of paid sick leave under the Emergency Paid Sick Leave Act if unable to work for the reasons described in items #1, #2 and #3. Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5.

III. Authority:

The Families First Coronavirus Response Act (H.R. 6201) signed by President Trump on March 18, 2020.

Okaloosa County Human Resources Policy Manual Chapter IX – Attendance and Leave;

U.S. Department of Labor - Wage and Hour Division (WHD) is issuing implementing regulations and will be providing enforcement.

IV: Definitions:

EFMLE - Emergency Family Medical Leave Expansion Act

EPSLA - Emergency Paid Sick Leave Act

FFCRA - Families First Coronavirus Response Act

FMLA - Family and Medical Leave Act

FTE – Full Time Employee

V. Procedures:

A. Emergency Paid Sick Leave Act:

- i. All employees—regardless of the employee's tenure or FTE status with the County—are entitled to emergency paid sick leave under the EPSLA. Employees seeking to utilize this benefit should provide a medical recommendation from a health care provider indicating their guidance for an employee to self-isolate in relation to COVID-19. If the leave is requested to care for a qualifying family member, as per the criteria established for the FMLA, then a note should be provided from their health care provider.

- ii. The County is required to provide emergency paid sick leave to an eligible non-essential employee who is unable to work or telework because, due to COVID-19, the employee:
 - 1. Is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
 - 2. Has been advised by a health care provider to self-quarantine related to COVID-19;
 - 3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
 - 4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
 - 5. Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
 - 6. Is experiencing any other substantially similar condition, specified by the U.S. Department of Health and Human Services.

It is the County's interpretation, absent further guidance from the WHD, "care for an individual" is referencing care specifically for family members covered under the FMLA.

- iii. County employees are entitled to two weeks of paid sick leave. For fulltime employees, two weeks is the equivalent of 80 hours at the employee's regular rate of pay; part-time employees are entitled to two-weeks of pay based on the number of hours the employee works, on average, over a two-week period (or if the employee has variable hours of work each week, the employee's average hours of work over the preceding six (6) months).
- iv. Employees utilizing this leave provision are entitled to his/her full salary or wages, capped at \$511 per day, as a result of COVID-19 under qualifying reasons #1, #2 and #3.
- v. Employees utilizing this leave provision are entitled to 2/3 their regular rate of pay, capped at \$200 per day, under qualifying reasons #4, #5 and #6 per the FFCRA; however, the County has authorized to enhance this benefit to allow for paid administrative leave to supplement the mandated 2/3 pay so employees may be provided with 100% normal wages.
- vi. Employees utilizing this leave provision under qualifying reasons #1, #2, #3, #4, and #6 will be permitted to supplement personal annual or sick leave to provide for 100% or normal wages. Effective April 6, 2020, paid administrative leave may be used to supplement the 2/3 pay so employees may be provided with 100% normal wages. Additional paid administrative leave may be approved under conditions and for durations as designated and approved by the County Administrator.
- vii. Where an employee has been advised by a medical provider to self-quarantine, the employee is entitled to emergency paid sick leave under the EPSLA. Upon expiration of all EPSLA leave available to the employee, the employee may qualify for further leave if the employee is experiencing a "serious health condition" under the FMLA. The existing FMLA Leave policy should be followed for employees wishing to pursue this option.
- viii. The emergency paid sick leave available to employees under the EPSLA is in addition to any paid leave already provided by the County. In other words, an employee is entitled to sick leave under the EPSLA without first exhausting any paid leave benefit offered by the County and the paid leave entitlement does not serve to diminish an employee's sick leave bank.

- ix. In order for an employee to qualify for emergency paid sick leave under the “is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services” criteria, the employee will be required to provide documentation from a health care provider stating s/he is experiencing a condition that has been specifically identified by the Secretary of Health and Human Services. The Secretary, as of the time of this policy is initially being issued, has not yet identified any conditions similar to COVID-19.
- x. THIS LEAVE OPTION IS NOT AVAILABLE FOR EMPLOYEES CONCERNED ABOUT CONTRACTING COVID-19. ANY LEAVE REQUESTED AND AUTHORIZED BASED MERELY ON AN EMPLOYEE’S CONCERN OVER POTENTIAL EXPOSURE WILL REQUIRE USE OF THE EMPLOYEE’S ACCURED ANNUAL LEAVE IN ACCORDANCE WITH EXISTING LEAVE REQUEST POLICY.
- xi. Only employees who are requesting EPSLA for the purposes of providing child care will be permitted to use available leave intermittently in half day increments only and with specific approval to do so by the County. All other qualified requests for EPSLA must be used in full day increments and must be continued to be used until either the paid leave benefit is exhausted or the employee no longer has a qualifying reason for taking paid sick leave as determined by the provision of the EPSLA.
- xii. Emergency sick leave granted under the EPSLA is not required to be paid out at the end of the year or upon separation from employment. The requirements imposed by the EPSLA sunset on December 31, 2020. Additionally, the benefits made available through this Act are not to be made available or paid retroactively prior to the effective date of the FFCRA (April 1, 2020).
- xiii. The County reserves the right to exclude from the provisions of this Act essential first responder and health care employees working in capacities required for the on-going and continued safety of the public we serve. *
- xiv. Employees seeking leave in order to care for a child due to COVID-19 related school or child care facility closures may also seek leave under the Emergency Medical Leave Expansion Act as provided below.
- xv. Leave granted under this provision will run concurrently with any other qualified leave programs and provisions related to COVID-19.
- xvi. LEAVE REQUESTS THROUGH THIS ACT MUST BE SUBMITTED ON THE FAMILIES FIRST CORONAVIRUS ACT LEAVE REQUEST FORM.
- xvii. Employees working modified schedules in order to reduce interactions between team members and/or the public to minimize potential exposure opportunities while conducting County business, and who are unable to complete their work functions via teleworking, may be eligible for paid administrative leave for the normal working days/times they would typically be scheduled to work but have been instructed to stay home by their assigned Director. For example, employees may be asked to rotate shifts, working one week which would be designated as regular pay, and then staying home the next week which would be designated as paid administrative leave. Employees receiving this pay may only do so with the approval of their assigned Director, applicable Deputy County Administrator, and the County Administrator and only for the duration of time as approved by the County Administrator.

**The County is currently reviewing essential employee classifications under this regulation and has initially identified the following classifications are exempt from the paid sick leave and expanded family and medical leave under the provisions of the Families First Coronavirus Response Act: all positions requiring certification as a Paramedics or EMT; all positions in the Beach Lifeguards division; all EMS support positions; all positions within Emergency Management and the Public Safety Director; all positions requiring certification as a Correctional Officer; all positions requiring certification as a Wastewater Treatment Plant Operator; all positions requiring certification as a Water Treatment Plant Operator; all positions requiring a Water Distribution System Operator License and al positions requiring a Wastewater Collection Certification; all positions in the Water & Sewer Laboratory; all positions in the Lift Stations and Electronics Divisions of Water & Sewer, all positions in the Water & Sewer SCADA section all positions in the Water & Sewer Information Technology section;, Building Official, Construction Inspector I, Construction Inspector II, Construction Inspector III, Grants and Housing Program Coordinator, Growth Management Director, Planning and Permit Technician, Constructions Plans Examiner, Planner II, Planner III, Planning Coordinator, GIS Analyst Planner, all positions in the Information Technology Department, Airports Director, Airports Chief Financial Officer, Airports Deputy Director – Operations, Airports Financial Services Coordinator, Airports Maintenance Supervisor, Airports Maintenance Foreman, Airports Maintenance Technicians, Senior Airports Maintenance Technician, General Aviation Operations Coordinator, Airports Operations Coordinator, and Airports Security Specialists.*

B. Emergency Family Medical Leave Expansion Act (EFMLEA):

- i. Any full-time or part-time employee who has been on the payroll of the local government for 30 days prior to taking leave under the EFMLEA is eligible for the leave benefits provided by the EFMLEA. There is not an hours of work requirement associated with EFMLEA leave as there is under the FMLA.
- ii. The EFMLEA allows employees a maximum of 12-weeks of job-protected leave if an employee is unable to work or telework because the employee is needed to care for the employee’s son or daughter (who is under the age of 18) because the child’s school or childcare facility has been closed or the child’s childcare provider is unavailable due to the public health emergency.
The EFMLEA explicitly provides that leave is available for a school closure or loss of childcare only for an employee’s son or daughter. The EFMLEA does not extend benefits to any other family members or next of kin.
- iii. The first 10 days of leave is unpaid under the EFMLEA; however, an employee may choose to take any existing pay benefit during the 10-day unpaid leave portion of EFMLEA, including emergency paid leave provided by the EPSLA. Paid leave provided by the EPSLA, to include enhanced County benefit of supplemental paid administrative leave, may run concurrently with leave provided by the EFMLEA. Thereafter, the eligible EFMLEA job-protected leave is paid at a rate of the mandated 2/3 of the employee’s regular rate plus a supplemented County benefit of an additional 1/3 pay provided as paid administrative leave to allow for a total benefit of 100% normal wages.
- iv. Part-time employees are entitled to be paid based on 2/3 of their usual pay for the average number of hours worked for the six (6) months prior to taking the EFMLEA leave plus an additional 1/3 enhanced benefit of paid administrative leave provided by the County to allow for a total of 100% of normal wages.
- v. The EFMLEA simply adds new eligibility criteria to the original FMLA and does not provide for additional time in excess of the annual eligibility rates as outlined in the FMLA. Therefore, the EFMLEA leave benefit counts toward an employee’s total of 12-weeks of traditional FMLA leave. Employees that have already used a portion of or exhausted all eligible leave as outlined in the original FMLA would only be eligible for the difference, if

any exists, for use under this provision. Any FMLA used under this provision would reduce the amount of FMLA available by the employee for other purposes, for the following 12-month period. The EFMLEA does not carve out additional time per family member or incident and instead allows for up to a total of 12-weeks' time to be used for eligible situations in a 12-month period per employee.

- vi. The only benefit available under the EFMLEA is time away from work for an employee to care for a minor child if the child's school or place of childcare has been closed or is unavailable due to a public health emergency. The EFMLEA does not provide a leave benefit for an employee's own hospitalization. That said, the employee may be eligible for job-protected leave under the regular FMLA, which may allow for the use of paid leave provided pursuant to employer policies.
- vii. An employee may use EFMLEA intermittently in half day increments only, upon approval by the County. Requests to utilize this benefit will be reviewed on a case by case basis by the County. The initial two weeks of leave for this period is to be unpaid, unless the employee utilizes other forms of available leave or leave programs during that time period. If used intermittently, the employee will only be required to fulfill one initial two-week period, or the cumulative equivalent of two weeks work for the first 80 hours of coverage provided under this benefit, in allowing for the benefits of this provision to become effective.
- viii. Employees utilizing the EFMLEA may be authorized an additional 1/3 paid administrative leave to supplement their pay for time classified as EFMLEA time to provide for 100% or normal wages.
- ix. Employees utilizing EFMLEA leave are still required to pay for the full amount of their premium cost for elective, buy-up and family coverage insurance benefit plans. If an employee's check is not enough to cover the full cost of premiums, it is the employee's responsibility to pay the remainder of outstanding premium above and beyond paid EFMLEA benefits.
- x. Employees utilizing EFMLEA leave benefits are required to provide information verifying eligibility to participate in this provision to include the age of the child, the name of the school or child care facility, the date the school or child care facility closed, and other information as required.
- xi. The EFMLEA does not cover care for the employee's or dependent's illness associated with COVID-19 or any other illness.
- xii. Benefits under the EFMLEA are not paid retroactively or made available for employee use prior to the effective date of April 1, 2020. Paid Administrative Leave to supplement the mandated 2/3 pay to allow employees to receive 100% of normal wages is not effective any earlier than April 6, 2020, or during a future pay period where EFMLEA leave is requested and approved.
- xiii. The County reserves the right to exclude from the provisions of this Act essential first responder and health care employees working in capacities required for the on-going and continued safety of the public we serve. *
- xiv. Leave granted under this provision will run concurrently with any other qualified leave programs and provisions related to COVID-19.

xv. LEAVE REQUESTS THROUGH THIS ACT MUST BE SUBMITTED ON THE FAMILIES FIRST CORONAVIRUS ACT LEAVE REQUEST FORM.

**The County is currently reviewing essential employee classifications under this regulation and has initially identified the following classifications are exempt from the paid sick leave and expanded family and medical leave under the provisions of the Families First Coronavirus Response Act: all positions requiring certification as a Paramedics or EMT; all positions in the Beach Lifeguards division; all EMS support positions; all positions within Emergency Management and the Public Safety Director; all positions requiring certification as a Correctional Officer; all positions requiring certification as a Wastewater Treatment Plant Operator; all positions requiring certification as a Water Treatment Plant Operator; all positions requiring a Water Distribution System Operator License and all positions requiring a Wastewater Collection Certification; all positions in the Water & Sewer Laboratory; all positions in the Lift Stations and Electronics Divisions of Water & Sewer, all positions in the Water & Sewer SCADA section all positions in the Water & Sewer Information Technology section; Building Official, Construction Inspector I, Construction Inspector II, Construction Inspector III, Grants and Housing Program Coordinator, Growth Management Director, Planning and Permit Technician, Construction Plans Examiner, Planner II, Planner III, Planning Coordinator, GIS Analyst Planner, all positions in the Information Technology Department, Airports Director, Airports Chief Financial Officer, Airports Deputy Director – Operations, Airports Financial Services Coordinator, Airports Maintenance Supervisor, Airports Maintenance Foreman, Airports Maintenance Technicians, Senior Airports Maintenance Technician, General Aviation Operations Coordinator, Airports Operations Coordinator, and Airports Security Specialists.*

C. Pay Codes Developed for Time Tracking of These Leave Options:

The Families First Coronavirus Response Act’s paid leave provisions are effective on April 1, 2020 and apply to leave taken between April 1, 2020 and December 31, 2020. Please use the following pay codes as necessary.

Pay Code 066 Emergency SL – 100%

Paid @ 100%

- Up to two weeks (80 hours, or a part-time employee’s two-week equivalent)
- # 1 The employee is subject to a Federal, State or local quarantine or isolation order
- #2 The employee has been advised by a healthcare provider to self-quarantine due to concerns related to the virus
- #3 The employee is experiencing symptoms of the virus and seeking a medical diagnosis

Pay Code 067 Emergency SL 2/3 – Caregiver/Other

Paid @ 100%

- #4 The employee is caring for another individual who falls into categories 1 or 2, above. “Individual” is determined to mean a qualified person as defined by the FMLA.
- #5 The employee is caregiving for his or her child if their school or place of childcare has been closed or is unavailable due to the virus
- #6 The employee is experiencing any other substantially similar condition specified by the U.S Department of Health and Human Services
- Pay under this provision is combined of 2/3 pay as mandated by the Act and 1/3 pay as paid administrative leave as provided as an enhanced benefit by the County to allow for 100% of normal wages.

Pay Code 068 Emergency Childcare – FMLA 2/3

Paid @ 100%

- The first 10 days of leave may be unpaid or an employee may opt to substitute accrued annual leave or comp time balances.
- #5 The employee is caregiving for his or her child if their school or place of childcare has been closed or is unavailable due to the virus.

- Leave under this provision may be used intermittently in half day increments, with a minimum of four hours usage daily.
- Pay under this provision is combined of 2/3 pay as mandated by the Act and 1/3 pay as paid administrative leave as provided as an enhanced benefit by the County to allow for 100% of normal wages.

Pay Code 209 Administrative Leave with Pay - Pandemic 100%

Paid @ 100%

- This leave code may be used to account for approved paid administrative leave due to an employee's participation in an approved alternating work schedule as directed by their Director and as approved by the County Administrator.
- This code may also be used to account for time for other groups of employees whose normal work schedule has been impacted by COVID-19 but only as approved by the County Administrator and only for a time period as established and approved by the County Administrator.