

**BELMONT COUNTY BOARD OF COMMISSIONERS
PERSONNEL POLICY MANUAL**

FAMILIES FIRST CORONAVIRUS RESPONSE ACT POLICY	SECTION 6.11A
FAMILY AND MEDICAL LEAVE EXPANSION AND EMERGENCY SICK LEAVE	Page 1 of 6

The following section will cease to have effect as of 01/01/2021.

**FAMILIES FIRST CORONAVIRUS RESPONSE ACT POLICY
FAMILY AND MEDICAL LEAVE EXPANSION AND EMERGENCY SICK
LEAVE**

Effective April 1, 2020, and ending on December 31, 2020, employees will be entitled to the limited use, expanded leave in the following manner:

I. Family and Medical Leave Expansion- “Public Health Emergency Leave”

The Employer’s Family and Medical Leave Policy is hereby amended to include eligible employees who, because of a qualifying need related to a public health emergency, have need to avail themselves of “Public Health Emergency Leave,” as defined below.

Traditional Family and Medical Leave will remain available to all employees otherwise entitled to such leave, unpaid and under existing Employer policy, and its provisions are only changed herein insofar as the application of the new “Public Health Emergency Leave” benefit described herein.

- A. An eligible employee is entitled to take up to twelve (12) weeks of Family and Medical Leave, provided the employee has not utilized such Leave prior to the need for Public Health Emergency Leave, and such leave is for a qualifying need related to the COVID-19/Coronavirus public health emergency. An employee becomes eligible for public health emergency leave after being employed for at least thirty (30) calendar days by the Employer with respect to whom leave is requested
- B. Public Health Emergency leave will only be for a qualifying need related to a public health emergency. The only qualifying need related to a public health emergency recognized by this policy is for an employee who is unable to work (or telework) due to a need for leave to care for the son or daughter under eighteen (18) years of age 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 a public health emergency.
- C. Public Health Emergency Leave will consist of unpaid leave for the first ten (10) days a qualified employee takes public health emergency leave. An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave during the first ten (10) days of public health emergency leave.

After the first ten (10) days of public health leave, an Employer shall provide paid leave for each day of public health emergency leave remaining of the employee’s overall FMLA entitlement that an employee takes after taking leave under such section for ten (10) days.

The amount of pay that an eligible full-time employee may receive, as provided in the

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previous paragraph, will be calculated based on an amount that is not less than two-thirds (2/3) of an employee's regular rate of pay; and the number of hours the employee would otherwise be normally scheduled to work

- D. For part-time employees or employees with varying schedules, and to the an extent that an Employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken public health emergency leave or other leave, the Employer shall use the following in place of such number:

a number equal to 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 such leave, including hours for which the employee took leave of any type.

Also, if the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

- E. Regardless of whether the employee is full-time, part-time, seasonal, or otherwise, in no event shall any pay in this policy for public health emergency leave exceed \$200 per day and \$10,000 in the aggregate.
- F. In any case where an employee has the necessity for public health emergency leave and the need is foreseeable, an employee shall provide the Employer with such notice of leave as soon as is practicable. The Employer will provide a form for such request that the employee must fill and return to the Employer as soon as is practicable. A failure to provide practicable notice may result in the employee being absent without approved leave.

G. Special Rule for Health Care Providers and Emergency Responders

An Employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of the provisions in the amendments made under of section 3102 of this Act.

The Employer has not elected, pursuant to the Family and Medical Leave Expansion Act to exclude health care providers and emergency responders from the application of the new public health emergency leave.

- H. Under the Family and Medical Leave Expansion Act, the requirements that an Employer to restore an employee who returns from FMLA leave to his or her position or an equivalent one do not apply to Employers with fewer than 25 employees if certain conditions are met:
- i. the employee takes public health emergency leave;

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- ii. the employee’s position no longer exists due to economic conditions or other changes in the Employer’s operating conditions that affect employment and are caused by the COVID-19/Coronavirus emergency;
- iii. the Employer makes reasonable efforts to restore the employee to an equivalent position; **and**
- iv. if the Employer cannot restore the employee to an equivalent position, the Employer makes reasonable efforts to contact the employee if an equivalent position becomes available during the “contact period.” The “contact period” is one year from either (a) the date public health emergency leave ends, or (b) the date that is 12 weeks after public health emergency leave starts, whichever is earlier.

II. Definitions

- A. “Child care provider” means a provider who receives compensation for providing child care services on a regular basis.
- B. “Eligible Employee” means an employee who has been employed for at least 30 calendar days by the Employer with respect to whom leave is requested.
- C. “Health Care Provider” and “Emergency Responder” includes, but is not limited to an employee engaged by the Employer to function as a Physician, Public Health Nurse, Registered Nurse, Licensed Practical Nurse, Sanitarian (including those in training), Health Agency staff and employees who has as his/her job duties the requirement to provide and/or directly support the provision of health care services for an Employer, Sworn Police Officer, Sheriff’s Deputy, Township Constable, Firefighter, Firefighter/EMT, Firefighter/Paramedic, Dispatcher, Communications Officer, Corrections Officer, Jailer, ambulance service provider, or any employee who has as his/her job duties the requirement to provide and/or directly support the provision of law enforcement, public safety, emergency response services, rescue workers, and ambulance service providers, or any other classification of employee not designated above who is included in the term emergency responder through federal regulation. Additionally, pursuant to Public Law 116-127, emergency responder includes any other classifications or types employees performing duties that the Department of Labor Secretary deems appropriate to fit under this category through guidance or rules provided subsequent or concurrent to the adoption of this policy.
- D. “Employer” means any public sector agency or any private sector entity with fewer than five hundred employees.
- E. “Public Health Emergency” means an emergency with respect to COVID–19 declared by a Federal, State, or local authority.

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- F. “Public Health Emergency Leave” means a particular type of Family and Medical Leave that is in part unpaid and paid that qualified employees may utilize in response to the COVID-19/Coronavirus pandemic.
- G. “Qualifying need related to a public health emergency” means that, for the purposes of the Family and Medical Leave Expansion Act, the employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age 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 a public health emergency.
- H. “School” means an elementary school or secondary school as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

III. EMERGENCY PAID SICK LEAVE ACT LEAVE

- A. The Employer’s Sick Leave Policy is hereby amended to include Emergency Paid Sick Leave to eligible employees who are unable to work or telework, due to a need for leave because
- (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 an order as described in subparagraph (1) or has been advised as described in paragraph (2).
 - (5) The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter 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.

There is an exception that an Employer of an employee who is a health care provider or an emergency responder may elect to exclude such employees from the application of this subsection regarding Emergency Paid Sick Leave. The definition for emergency responder can be found in the definitions section above in Section II(C).

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The Employer has not elected, pursuant to the Emergency Paid Sick Leave Act to exclude health care providers and emergency responders from the application of the new public health emergency leave.

- B. An employee shall be entitled to emergency paid sick leave for 80 hours for full-time employees. For part-time employees, the employee will be entitled to a number of hours equal to the number of hours that such employee works, on average, over a 2-week period. The paid sick leave under this policy shall be available for immediate use by the employee for the purposes described in this policy, regardless of how long the employee has been employed by an employer. Emergency paid sick leave under this policy will be in addition to any accrued sick leave already accrued by an employee, and the use of emergency paid sick leave will not be deducted from an employee's existing sick leave accrual.
- C. Emergency paid sick leave will be calculated for full-time employees based upon the number of hours the employee would otherwise be normally scheduled to work for full-time employees at the employee's regular rate of pay, the minimum wage found in the FLSA, or the minimum wage of the State of Ohio, at whichever rate is greater of the three rates.

For part-time employees or employees with varying schedules, and to the an extent that an employer is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken public health emergency leave or other leave, the Employer shall use the following in place of such number:

a number equal to 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 such leave, including hours for which the employee took leave of any type.

Also, if the employee did not work over such period, the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

- D. With respect to any emergency paid sick leave provided for any use described in III(A)(4),(5), or (6) referenced above in this policy, the employee's required compensation under this subparagraph shall be two-thirds of the amount described in Section II(C.) of this policy.

Additionally, regardless of the employee's full or part-time status, in no event shall such paid sick time exceed—

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- i. \$511 per day and \$5,110 in the aggregate for a use described in III(A)(1),(2), or (3) as referenced above regarding qualifying reasons for emergency sick leave; and
 - ii. \$200 per day and \$2,000 in the aggregate for a use described in III(A)(4),(5), or (6) as referenced above regarding qualifying reasons for emergency sick leave.
- E. An employee may first use the paid sick leave provided under this policy for the purposes described in this policy, and an Employer may not require an employee to use other paid leave provided by the Employer to the employee before the employee uses the emergency paid sick leave under this policy for the purposes specified above.
- F. Paid sick leave provided to an employee under this policy shall cease beginning with the employee's next scheduled shift immediately following the termination of the need for paid sick leave under this policy.
- G. Any employee requesting such leave provided in this section shall provide notice to the Employer as soon as is practicable that the employee requires the need for leave. The Employer will provide a form for the employee to complete designating the request for leave, and the type of leave to be requested. A failure to provide practicable notice may result in the employee being absent without approved leave.
- H. An Employer may not require, as a condition of providing Emergency Paid Sick Leave under this policy, that the employee involved search for or find a replacement employee to cover the hours during which the employee is using paid sick leave. Paid sick leave under this policy
- I. Paid sick leave under this section shall not carry over from 1 year to the next.
- J. After the first workday (or portion thereof) an employee receives paid sick leave under this Act, an Employer may require the employee to follow reasonable notice procedures in order to continue receiving such paid sick leave.
- K. Each Employer shall post and keep posted, in conspicuous places on the premises of the Employer where notices to employees are customarily posted, a notice, to be prepared or approved by the Secretary of Labor, of the requirements described in this Act.

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