

# **Families First Coronavirus Response Act (FFCRA) FMLA Leave Expansion (EFMLA) and Emergency Paid Sick Leave Policy (PSL)**

## **Purpose**

To comply with the Families First Coronavirus Response Act and to assist employees affected by the COVID-19 outbreak with job-protected leave and pay, where applicable. This policy will be in effect until December 31, 2020. Our existing FMLA leave policy still applies to all other FMLA-qualifying reasons for leave outside of this policy.

## **Expanded FMLA Leave**

### **Employee Eligibility**

All current employees who have been employed with Brazos County for at least 30 days and are actively scheduled for work are eligible for leave under this policy.

Employees laid off or otherwise terminated on or after March 1, 2020, who are rehired on or before December 31, 2020, are eligible for leave upon reinstatement if they had previously been employed with Brazos County for 30 or more of the 60 calendar days prior to their layoff or termination.

For purposes of the Expanded FMLA policy, emergency responders are excluded. An emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. Specifically, for Brazos County, this includes employees in the following departments: Sheriff's Office, Juvenile, Constable Pct. 1, Constable Pct. 2, Constable Pct. 3, and Constable Pct. 4.

### **Reason for Leave**

Eligible employees who are unable to work (or telework) due to a need to care for their child when a school or place of care has been closed, or when the regular child care provider is unavailable due to a public health emergency with respect to COVID-19.

"Child" 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.
- 18 or older and incapable of self-care because of a mental or physical disability.

"Child care provider" means a provider who receives compensation for providing child care services on a regular basis, including:

- A center-based child care provider.

- A group home child care provider.
- A family child care provider (one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence).
- Other licensed provider of childcare services for compensation.
- A childcare provider that is 18 years of age or older who provides child care services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece or nephew of such provider, at the direction of the parent.

“School” means an elementary or secondary school.

### **Duration of Leave**

Employees will have up to 12 weeks of leave to use through December 31, 2020, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy.

### **Increments & Intermittent Use of Leave**

Employees may take expanded FMLA leave intermittently and in any increment agreed to with their Department Head/Elected Official. For example, an employee may only need 4 hours per day of leave to care for his or her child or may only need to do so on Tuesdays and Thursdays. Managers and employees are expected to be flexible in scheduling wherever possible.

### **Pay During Leave**

Leave will be unpaid for the first 10 days of leave; however, employees may use accrued leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as further explained below. After the first 10 days, leave will be paid utilizing the Paid EFMLA Leave Code. Any unused portion of this pay will not carry over to the next year.

For employees with varying hours, they may utilize Emergency Paid Sick Leave or EFMLA for the budgeted average number of hours for their position.

### **Employee Status and Benefits During Leave**

While an employee is on leave, Brazos County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must continue to make this payment per instructions from the HR department.

If the employee contributes to any optional insurances, Brazos County will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee will have the option to pay premiums directly or upon their return to receiving a paycheck.

## **Procedure for Requesting Leave**

All employees requesting FMLA leave must provide written notice of the need for leave to Human Resources as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided.

Notice of the need for leave must include:

- The name and age of the child or children being care for.
- The name of the school, place of care, or child care provider that closed or became unavailable due to COVID-19 reasons.
- A statement representing that no other suitable person is available to care for the child or children during the period of requested leave. For children over the age of 14, a statement indicating the special circumstances that require the employee to provide care during daylight hours.

On a basis that does not discriminate against employees on FMLA leave, Brazos County may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

## **Emergency Paid Sick Leave**

### **Eligibility**

All current employees scheduled but unable to work (or telework) due to one of the following reasons for leave:

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 either number 1 or 2 above.
5. The employee is caring for his or her child if the school or place of care of the child has been closed, or the child care provider of such child 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.

“Child” 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.
- 18 or older and incapable of self-care because of a mental or physical disability.

“Individual” means an immediate family member, roommate or similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she self-quarantined or was quarantined. Additionally, the individual being cared for must: a) be subject to a federal, state or local quarantine or isolation order as described above; or b) have been advised by a health care provider to self-quarantine based on a belief that he or she has COVID-19, may have COVID-19 or is particularly vulnerable to COVID-19.

### **Amount of Paid Sick Leave**

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. Eligible part-time employees are entitled to the number of hours worked on average. For employees with varying hours, they may utilize Emergency Paid Sick Leave or EFMLA for the budgeted average number of hours for their position.

### **Increments and Intermittent Use of Leave**

When working from home, employees may take emergency paid sick leave intermittently and in any increment agreed to with their Department Head/Elected Official. As in the example for FMLA leave, an employee may only need 4 hours per day of leave to care for his or her child or may only need to do so on Tuesdays and Thursdays. Managers and employees are expected to be flexible in scheduling wherever possible.

For those not teleworking and currently working onsite, an employee may only take intermittent leave for reason 5 above, to care for his or her child when the school or place of care is closed, or the caregiver is unavailable due to COVID-19-related reasons. Per the regulations, as all other reasons for emergency paid sick leave could potentially expose an employee or others in the workplace to the virus, employees must either use the full amount of paid sick leave or use it in full-day increments until the reason for leave is over and it is safe for the employee to return to work.

### **Rate of Pay**

Emergency sick leave will be paid at the employee's regular rate of pay utilizing the Paid Sick Leave Code.

### **Interaction with Other Paid Leave**

The employee may use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above.

Employees on EFMLA leave under this policy may use emergency paid sick leave concurrently with that leave. Emergency paid sick leave may also be used when an employee is on leave under traditional FMLA for his or her own COVID-19-related serious health condition or to care for a qualified family member with such a condition.

### **Procedure for Requesting Emergency Paid Sick Leave**

Employees must notify their manager or Human Resources of the need and specific reason for leave under this policy. A form for requesting Emergency Paid Sick Leave is available. Verbal notification will be accepted until practicable to provide written notice.

Documentation supporting the need for leave must be included with the leave request form, such as:

- A copy of the federal, state or local quarantine or isolation order related to COVID-19 applicable to the employee or the name of the government entity that issued the order.

- Written documentation by a health care provider advising the employee to self-quarantine due to concerns related to COVID-19 or the name of the provider who advised the employee.
- The name and relation of the individual the employee is taking leave to care for who is subject to a quarantine or isolation order or is advised to self-quarantine.
- The name and age of the child or children being cared for; the name of the school, place of care, or child care provider that closed or became unavailable; and a statement that no other suitable person is available to care for the child during the period of requested leave.
  - For children over age 14, a statement indicating the special circumstances that require the employee to provide care during daylight hours.

Once emergency paid sick leave has begun, the employee and his or her manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

### **Carryover**

Paid emergency sick leave under this policy will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

### **Job Protections**

No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave.

Please contact the Human Resources with any questions at 979-361-4181.