

Monterey County Families First Coronavirus Response Act Implementation Policy

The Families First Coronavirus Response Act (FFCRA) was effective April 1, 2020 through December 31, 2020. The County has opted to implement the optional extension of the FFCRA provisions, afforded by the federal government, and extend this policy from January 1, 2021 through March 31, 2021. The intent of this extension is to provide employees who did not exhaust FFCRA hours and/or dollar amount thresholds in 2020, the ability to use remaining balances through March 31, 2021. The County will administer the FFCRA provisions in accordance with the guidance provided by the United States Department of Labor. Should this policy conflict with amended laws or rules, those laws or rules shall supersede this policy.

Under the FFCRA, health care providers and emergency responders may be excluded from the provisions of the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act due to the County's need to provide essential services to the public. The County, through the County Administrative Officer or designee, reserves the right to exempt health care providers or emergency responders from provisions of the Emergency Paid Sick Leave Act and/or the Emergency Family and Medical Leave Expansion Act in order to ensure the health and safety of the community.

SECTION 1: EMERGENCY PAID SICK LEAVE ACT

- A. The County of Monterey will provide full time permanent/regular employees or County temporary employees up to 80 hours of Emergency Paid Sick Leave (EPSL) if the employee is unable to work or telework due to the following absence reasons:
- 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 absence reason 1) above or has been advised as described in absence reason 2) above;
 - 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; or
 - 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.

- B.** County permanent/regular employees or County temporary employees who work less than full time shall receive a prorated amount of hours based on an employee’s FTE or regular schedule hours as set forth in the FFCRA, for the reasons identified in subsection A above.

County permanent/regular employees or County temporary employees who work less than full time are entitled to leave for his/her average number of work hours in a two-week period. Therefore, the amount of hours of leave are calculated based on the number of hours the employee is normally scheduled to work. If the normal hours scheduled are unknown, or if the less than full time employee’s schedule varies, the six-month average may be used to calculate the average number of daily hours.

- C.** If this calculation cannot be made because the employee has not been employed for at least six months, the number of hours agreed upon at the time of hire shall be used for proration purposes. Leave taken as EPSL is in addition to any other leave accrued. Unused leave does not carryover and will expire on March 31, 2021 for all employees.

- D.** Emergency Paid Sick Leave is subject to the following caps:

- 1) \$511/Day and \$5,110 in the aggregate for Employee-Related COVID-19 absence reasons 1, 2 and 3 found in subsection A above, and
- 2) Two-thirds of regular rate pay up to a maximum of \$200/Day and \$2,000 in the aggregate for the Employee-Related COVID-19 absence reasons 4, 5 and 6 found in subsection A above.
- 3) Employees may supplement the EPSL with their accrued leaves to achieve 100% of their regular rate of pay.

SECTION 2: EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT
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A. Eligibility

Effective April 1, 2020, employees are eligible for up to 12 weeks of job-protected Public Health Emergency Leave if the following requirements are met:

- 1) The employee has worked for the County for at least 30 calendar days;
- 2) The employee is unable to work (or telework) due to a need to care for the son or daughter (under 18 years of age) whose school or place of care has been closed, or whose child care provider is unavailable due to a COVID–19 emergency declared by either a Federal, State, or local authority; and
- 3) The employee provided reasonable notice of the need for the leave. Employees shall request leave as soon as practicable, certify the need for leave in writing at the time of the request, and provide documentary proof of the closure.
- 4) Public Health Emergency Leave is a type of FMLA leave and is not in addition to existing FMLA leave.

B. Paid Leave

The first 10 days of Public Health Emergency Leave may consist of unpaid leave unless the employee elects to utilize accumulated leaves, including FFCRA Emergency Paid Sick Leave in Section 1 above. For the remaining 10 weeks, an employee is entitled to paid leave at two-thirds of the employee's regular rate of pay subject to a cap of \$200 per day and \$10,000 total. Employees may supplement the Public Health Emergency Leave for the remaining 10 weeks of leave with their accrued leaves to achieve 100% of their regular rate of pay.

C. Restoration to Prior Position

Employees utilizing Public Health Emergency Leave are entitled to reinstatement to their prior position unless the position held by the employee does not exist due to economic conditions or other changes in operating conditions caused by a public health emergency during the period of leave.

If the County is unable to restore the employee to an equivalent position to the employee's prior position, the County will notify the employee if an equivalent position becomes available within 1-year of either, the date the public health emergency concludes or date which is 12 weeks after the employee started their Public Health Emergency Leave, (which ever date is earlier). Notification shall be by regular mail to the employees address on file.

D. Expiration

The provisions of this section shall expire on March 31, 2021. Unused leave does not carryover and will expire on March 31, 2021.