



**Cook County Bureau of Human Resources
Family and Medical Leave Act Policy Addendum
(Emergency Family and Medical Leave Expansion Act)
Revised Effective 6/01/2020**

I. Overview

In response to the Novel Coronavirus (COVID-19) pandemic, the United States Congress passed the Emergency Family and Medical Leave Expansion Act (the “Act”), which expands the Family and Medical Leave Act for certain COVID-19 related reasons effective April 1, 2020 through December 31, 2020. The County thus adopts the provisions of the Act as detailed below. The 12-week leave period provided under the Act does not provide additional leave to the Family and Medical Leave Act. Rather, it runs concurrently with it.

II. Intent

This policy is intended to be interpreted consistent with and subject to applicable law. It supersedes all earlier policies and/or memoranda that may have been issued from time-to-time on subjects covered in this policy. This policy is not intended to supersede or limit the County from enforcing programs or provisions in any applicable collective bargaining agreement. Should any provision in this policy conflict with a provision in the Family and Medical Leave Policy, the provision in this policy shall take precedence until its end date of December 31, 2020.

III. Jurisdiction

The Bureau of Human Resources (“BHR”) is authorized to develop and issue rules for the effective management of Cook County employees, pursuant to section 44-45 of the Cook County Code of Ordinances.

IV. Severability

If any section or provision of this policy should be held invalid by operation of law, none of the remainder shall be affected.

V. Areas Affected

This policy applies to County employees in Offices under the President and/or covered by the Cook County Employment Plan. This policy does not apply to employees deemed health care providers and/or emergency responders.

VI. Nondiscrimination

Cook County prohibits the discriminatory application, implementation, or enforcement of any provision of this policy based on race, color, sex, age, religion, disability, national origin, ancestry, sexual orientation, marital status, parental status, military discharge status, source of income, gender identity or housing status, or any other protected category established by law, statute or ordinance.

VII. Definitions

Child - The biological, adopted, foster, stepchild or legal ward, or child of an employee standing in loco parentis who is either under 18 years of age, or older than 18 and incapable of self-care due to a mental or physical disability as defined under the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*, for whom the employee has actual day-to-day responsibility for care.

Health Care Provider - Anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. This includes any permanent or temporary institution, facility, location or site where medical services are provided that are similar to such institutions; any individual employed by an entity that contracts with any of these institutions described above to provide services or to maintain the operation of the facility where that individual's services support the operation of the facility; anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments; and any individual that the highest official of a State or territory, including the District of Columbia, determines is a health care provider necessary for that State's or territory's or the District of Columbia's response to COVID-19.

Emergency Responder - 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, law enforcement officers, correctional institution personnel, emergency medical services personnel, physicians, public health personnel, emergency medical technicians, emergency management personnel, 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. This also includes any individual whom the highest official of a State or territory, including the District of

Columbia, determines is an emergency responder necessary for that State's or territory's or the District of Columbia's response to COVID-19.

VIII. Policy and Procedures

Pursuant to the Emergency Family and Medical Leave Expansion Act (the "Act"), the County must provide eligible employees up to twelve (12) weeks of partially paid leave. Affected employees may complete and submit the Emergency FMLA Request Form-COVID-19 to their Department Head (or Designee) for consideration.

A. Eligibility Requirements

To qualify for Emergency FMLA leave under the Act, an employee:

- i. Must have been employed by the County for at least 30 calendar days; and
- ii. Must be unable to work or telecommute due to a need for leave to care for a child due to closure of the child's school or place of care and/or unavailability of the child care provider, due to a public health emergency (such as COVID-19 pandemic).
- iii. Healthcare providers and emergency responders are exempted from the Emergency Family and Medical Leave Expansion Act.

B. Calculation of Emergency Family and Medical Leave Payment

While the County, in its discretion, will continue to pay employees their regular rate of pay until July 5, 2020, it nevertheless reserves the right to pay employees in accordance with the Act as follow:

- i. The first ten (10) days of emergency FMLA leave shall be unpaid, and the employee may substitute accrued paid time during the 10-day period. Eligible employees may qualify for pay under the Emergency Paid Sick Leave Personnel Rule Addendum for the 10-day period.
- ii. Any further emergency FMLA leave taken beyond the first 10 days shall be subject to two-thirds (2/3) of the employee's regular pay rate, not to exceed \$200 per day and \$10,000 in the aggregate.
- iii. For a part-time employee, payment will be calculated by multiplying two-thirds of the employee's hourly pay rate by the number of hours the employee would otherwise work, not to exceed \$200 per day and \$10,000 in the aggregate.

C. Notification

- i. Notice of foreseeable absence under this policy should be provided as soon as practicable to the supervisor and BHR Leave Coordinator in accordance with Section 4. Requirements of the County's Family Medical Leave Act Policy. Employees may request leave under this policy by completing the Emergency Family and Medical Leave Request Form.
- ii. Employees are required to provide documentation in support of leave taken under this policy (e.g.: notice of closure or unavailability of school, place of care, or childcare provider) to the Leave Coordinator within two (2) business days of taking such leave.
- iii. All existing certification requirements listed in Section 4. Requirements of the County's Family and Medical Leave Act Policy remain in effect if taking leave for one of the existing qualifying reasons under the FMLA.

D. Return to Work

- i. Upon returning to work, the employee will be placed in the same position held prior to the leave. Should the position no longer be available due to operating conditions of the County or conditions caused by a public health emergency during the period of leave, the County will make reasonable efforts to restore the employee to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. Should such reasonable efforts fail, the County will make reasonable efforts to contact the employee should an equivalent position become available.
- ii. Employees should follow their usual and customary return to work procedures when returning to work.

E. Severance

Employees shall not be reimbursed for any portion of emergency family and medical leave upon termination, resignation, retirement, separation from the County or expiration of the Emergency Family Medical Leave Expansion Act.

F. Penalties

Employees found to be in violation of this policy, or who falsify or misrepresent the basis for leave under this policy may be subject to discipline, up to and including discharge.