



Harris County Personnel Policies and Procedures

SECTION 14. FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Questions and Answers

COVID-19 FMLA Leave

Q: What is COVID-19 FMLA leave?

A: COVID-19 FMLA leave is a new use of FMLA that allows employees who have worked for the County at least 30 calendar days to take up to 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) due to the child's school or childcare facility has been closed or the child's childcare provider is unavailable due to the public health emergency. COVID-19 FMLA Leave is paid as opposed to regular FMLA leave and expires December 31, 2020.

Q: Who qualifies for COVID-19 FMLA leave?

A: Any employee who is not a health care provider or emergency responder and who has worked for the County for at least 30 calendar days is eligible to take FMLA leave if they are 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) due to the child's school or childcare facility being closed or the child's childcare provider is unavailable due to the public health emergency.

Q: Can employees take COVID-19 FMLA when their child's school is closed?

A: Only if their child's school is closed because of a public health emergency and they are unable to work or telework because of childcare needs.

Q: How is an employee paid while taking COVID-19 FMLA leave?

A: For the first 10 days of COVID-19 FMLA leave, the employee can elect to take unpaid leave or substitute any accrued vacation, compensatory time, or COVID-19 Sick Leave.

After the first 10 days of COVID-19 FMLA leave, the County will pay the employee two-thirds (2/3) of the employee's regular hourly rate of pay for the number of hours the employee is regularly scheduled to work. Wages are capped at \$200 a day and \$10,000 in the aggregate. Employees on COVID-19 FMLA leave cannot substitute any other available paid leave in order to receive their full regular rate of pay after the first 10 days of COVID-19 FMLA leave.

Q: Are employees entitled to an additional 12 weeks of FMLA leave for COVID-19 FMLA leave?

A: No, total leave under the FMLA has not changed. COVID-19 FMLA leave is a new use of FMLA and counts against an employee's regular 12 weeks of FMLA entitlement. COVID-19 FMLA leave and FMLA leave for existing FMLA-qualifying situations is limited to 12 weeks total.



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Q: If an employee has already used FMLA leave or exhausted their FMLA leave entitlement for the applicable 12-month period, can they take additional leave COVID-19 FMLA?

A: No, employees do not get additional FMLA leave time for COVID-19 FMLA leave. If employees have exhausted all 12 weeks of FMLA leave, they will not be eligible to take additional leave for COVID-19 FMLA. Similarly, if employees have used some FMLA leave during the applicable 12-month period, then the amount of leave employees can take for COVID-19 FMLA will be limited to their remaining FMLA leave balance.

Q: Can employees who only qualify for COVID-19 FMLA leave take FMLA for FMLA qualifying events other than child care disruption?

A: No, if an employee qualifies to take COVID-19 FMLA leave, but has not worked for the County for at least a year and worked 1250 hours the year prior the employee is not eligible to take FMLA leave for existing FMLA-qualifying situations and can only take FMLA leave for child care disruption.

Q: Can the employee accrue negative comp time during the first 10 days of COVID-19 FMLA leave?

A: Only if the employee has no available paid leave available, including COVID-19 Sick Leave.

Q: Can employees use their available paid leave beyond the first 10 days of COVID-19 FMLA leave usage?

A: No, after the first 10 days of COVID-19 FMLA leave, employees cannot use available paid leave or substitute available paid leave in order to receive their full regular rate of pay while using COVID-19 FMLA leave.

Q: Can COVID-19 FMLA leave be taken on an intermittent basis?

A: No. Employees must use COVID-19 FMLA for school closure or childcare disruption in full day increments. The law anticipates that a parent will know when they need leave under this provision. Therefore, if the need for COVID-19 FMLA leave is foreseeable, an employee must provide notice as soon as practicable.



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COVID-19 Sick Leave

Q: Which employees are eligible to use COVID-19 Sick Leave?

A: All County employees who are not health care providers and emergency responders, regardless of how long they have worked for the County, are eligible for COVID-19 Sick Leave.

Q: How much leave COVID-19 Sick Leave can eligible employees take?

A: Eligible regular position (full-time) employees can take up to 80 hours of COVID-19 Sick Leave and part-time and County temporary employees can take up to 60 hours of COVID-19 Sick Leave for a qualifying COVID-19 related reason.

Q: What are the qualifying reasons for leave?

A: Qualifying reasons for COVID-19 Sick Leave include:

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 son or daughter if the school or place of care of the son or daughter has been closed, or the childcare 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.

Q: May an employee use COVID-19 Sick Leave to cover the first 10 days of COVID-19 FMLA leave?

A: Yes, provided the employee qualifies for COVID-19 FMLA leave and has available COVID-19 Sick Leave to use.

Q: How does COVID-19 Sick Leave interact with the County's existing paid leave policies?

A: COVID-19 Sick Leave is in addition to time available under the County's paid sick leave policy.



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Q: Can Harris County require an employee to use other paid time off before using COVID-19 Sick Leave?

A: No, an employee may use COVID-19 Sick Leave for any of the qualifying events listed above. An employee may also choose to use other available paid leave before taking COVID-19 Sick Leave.

Q: What kind of notice must an employee provide if they want to take COVID-19 Sick leave?

A: The new law allows Harris County to require that an employee, after the first day an employee receives COVID-19 Sick leave, follow reasonable notice procedures to continue receiving COVID-19 Sick leave.

Q: Can an employee carryover COVID-19 Sick Leave?

A: No, an employee may not carryover any COVID-19 Sick Leave after December 31, 2020.

Q: Can COVID-19 Sick Leave be taken on an intermittent basis?

A: Yes and No. Employees who use COVID-19 Sick Leave for a reason other than school closure or childcare disruption may use COVID-19 Sick Leave on an intermittent basis. If an employee uses COVID-19 Sick Leave for school closure or childcare disruption, it must be taken in full day increments. The law anticipates that a parent will know when they need leave under this provision. If the need for COVID-19 Sick Leave is foreseeable, an employee must provide notice as soon as practicable.