

## **Attachment A**

### **Families First Coronavirus Response Act Leave Extension**

The Families First Coronavirus Response Act (FFCRA), including Emergency Paid Sick Leave Act (EPSL) and Emergency Family and Medical Leave Act (EFMLEA) benefits, expired on December 31, 2020.

The County will extend the use of EPSL and EFMLEA for employees with remaining hours until March 31, 2021, or until such time that Federal or State law or regulations extends or replaces the FFCRA benefits of EPSL and EFMLEA, whichever is shorter.

The County reserves the right to immediately exclude employees from the EFMLEA benefits based on service and operational needs impacted by COVID-19 quarantines and illnesses.

This extension would follow the document provided to employees and labor organizations in April 2020.

## EMERGENCY PAY FOR SONOMA COUNTY EMPLOYEES AND FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) IMPLEMENTATION

REVISED INFORMATION, as of April 13, 2020 and effective through May 4, 2020

The County of Sonoma is committed to supporting its employees during this pandemic emergency. This information revises and outlines the County's actions regarding pay and benefits to mitigate the impacts of the pandemic on employee pay and benefits, and incorporates the recently passed Families First Coronavirus Response Act (FFCRA). PLEASE NOTE: The new benefits under the FFCRA and other regulations are new, untested and subject to ongoing adjustment by the Department of Labor and the IRS and may necessitate changes to the County administered program.

The County is currently extending FFCRA benefits to healthcare providers and emergency responders, The County reserves the right to exclude health care providers and emergency responders from the FFCRA benefits based on operational needs.<sup>1</sup>

Please refer to the COVID-19 Public Health Emergency Employee Timecard Situation Coding Matrix For EPSL & EFMLEA dated April 13, 2020 for further details regarding pay and the FFCRA from April 7, 2020 through May 4, 2020.

### County Sick Leave Advance – Update:

An advance of 80.96 sick leave hours (pro-rated for part-time employees) was placed in employee sick leave banks for the pay period beginning 3/10/2020, with addition accruals to be frozen for 22 pay periods. **Be advised that these hours will no longer be considered an advance.** The hours will remain in your sick leave accruals and you will continue to accrue sick leave as outlined in the applicable MOU or Salary Resolution. Pursuant to the new legislation, sick leave use rules have been temporarily broadened to allow use by employees with children at home due to school or daycare facility closures related to the public health emergency.

- Employees on Advanced Disability Payment Plans (ADPP) should consult with Disability Management before using any accrued sick leave (email: [DisabilityUnit@sonoma-county.org](mailto:DisabilityUnit@sonoma-county.org), with subject line "ADPP Question").
- Employees who are currently receiving Long Term Disability benefits do not need to use the 80 hours of granted sick leave. Employees who have not started receiving disability benefits will need to use the accruals down to 40 hours prior to beginning LTD benefits. Consult with ACTTC-Payroll if you have any questions.
- Employees who are receiving Short Term Disability (STD) benefits may be able to use accrued leave to supplement their benefit payments, if allowed by the insurer. Contact ACTTC-Payroll if you have any questions regarding supplementing of STD benefits.

### Disaster Paid Not Worked (DPNW), Extended and Revised:

- DPNW will be extended for all employees through April 6, 2020. (Originally explained in the COVID-19 Public Health Emergency Employee Timecard Situation Coding Matrix as of 3/17/2020, which detailed pay instructions through April 3, 2020).

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<sup>1</sup> In an effort to recognize and assist the front line work force, the County is temporarily extending benefits to groups beyond those required under FFCRA.

## EMERGENCY PAY FOR SONOMA COUNTY EMPLOYEES AND FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) IMPLEMENTATION

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- Employees who are available to work, but are unable to work due to work-site closure or for whom the department does not have work or telework available, will continue to receive DPNW.
- Extra Help employees who would have normally been scheduled/were scheduled to work but were unable to work or telework due to closures, or to telework, will receive DPNW for missed hours.
- Beginning April 7, 2020:
  - Employees who are available to work, but are unable to work due to work-site closure or for whom the department does not have work or telework available, will continue to receive DPNW through May 4, 2020.
  - Extra Help employees who would have normally been scheduled/are scheduled to work but are unable to work or telework due to closures, or to telework, will receive DPNW for missed hours through April 20, 2020.
- Beginning April 21, 2020:
  - Extra help employees are no longer eligible for DPNW.

### County Implementation of Families First Coronavirus Response Act (FFCRA):

FFCRA provisions went into effect on April 1, 2020, and apply to leave taken related to the Coronavirus public health emergency, through December 31, 2020. The legislation provides two leave benefits for employees unable to work or telework for specific situations as outlined below: the Emergency Family and Medical Leave Act Expansion Act (EFMLEA) and the Emergency Paid Sick Leave (EPSL) Act<sup>2</sup>.

### Emergency Paid Sick Leave (EPSL):

- EPSL provides 80 hours of employer paid sick leave for full-time employees if work is available, but the employee is unable to work for one of the six (6) reasons listed below.
- For eligible part-time and extra-help employees, the number of EPSL hours provided will be pro-rated based on average hours worked over a six-month lookback period.
- EPSL hours will be paid at the employee's regular County hourly wage, or at their FLSA regular rate of pay, whichever is higher.
- EPSL hours are available between April 1, 2020 and December 31, 2020, for employees for whom work is available, but are unable to work or telework due to one of the following reasons:
  1. Are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
  2. Have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
  3. Are experiencing COVID-19 symptoms and are seeking a medical diagnosis from a health care provider;

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<sup>2</sup> Changing departments or jobs within the County or its special districts does not entitle the employee to additional hours.

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4. Are caring for an individual<sup>3</sup> subject to an order described in (1) or self-quarantine as described in (2);
  5. Are caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, if no other suitable person is available to care for the child during the period of such leave. (Coordinates with EFMLEA, below); or
  6. Are experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services<sup>4</sup>
- EPSL hours can only be used for one of the reasons above (#1-6).
  - EPSL hours will be in a separate leave accrual “bucket” and unused hours will be deleted at the end of the program (12/31/2020).
  - EPSL hours do not count towards the calculation of non-statutory overtime.
  - Extra-Help employees may be eligible for EPSL benefits if:
    - Work or telework is available; and
    - They recorded hours worked in the six month period prior to application for benefits; and
    - They are unable to work or telework due to one of the six reason listed above.

### Emergency Family and Medical Leave Expansion (EFMLEA):

Provides up to 12 weeks of leave with partial pay if work is available, but you are unable to work or telework because you are caring for a child<sup>5</sup> under the age of 18 who is home because of school or childcare closure due to a public health emergency. The Act expires on December 31, 2020. Unlike other qualifying events under Family and Medical Leave Act (FMLA), this act applies after 30 calendar days of employment, and provides an employer paid leave benefit after a 2 week waiting period.

- Leave is available to employees who have been employed for at least 30 calendar days at the time of application for benefits, including new employees.
- Extra help employees who have worked for the County within 30 days of applying for benefits may also qualify for EFMLEA benefits.
- For part-time and extra help employees, the County will use a 6-month look-back period to determine average hours worked and leaves used, for purposes of determining and applying 2/3 pay. [If an employee is .75 FTE, and generally works 80 hours per week, the employee will receive 2/3 of 8 hours pay; then the employee has the option of supplementing with leave accruals up to their full .75 FTE.]

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<sup>3</sup> Includes an employee’s immediate family member, a person who regularly resides in the employee’s home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if the individual were quarantined or self-quarantined.

<sup>4</sup> Note: To date, DHHS has not provided any qualifying conditions or symptoms for this category.

<sup>5</sup> “Child” is as defined under FMLA. Please refer to MOU/Salary Resolution for additional information.

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- The total amount of leave for both the FMLA and the new EFMLEA benefits per rolling calendar year remains at 12 weeks. Thus, if an employee has already used 12 weeks of FMLA, the employee will not be eligible for any of the new EFMLEA benefits within the 12-month calendar period.
- Once an employee applies for benefits, there is a two-week waiting period (e.g. 10 workdays for a 5/8 schedule) before EFMLEA pay benefits are available. During the two-week waiting period, an employee can use EPSL hours or their accrued leave time (vacation, comp, sick leave, etc.) to the extent necessary to meet their full time equivalent (FTE) for the pay period. (See EPSL information, above.) If the employee does not use EPSL during this time, MOU/Salary Resolution requirements for leave use will apply, with the exception that sick leave may also be applied for EFMLEA.
- At the conclusion of the first two workweeks, employees are eligible for employer paid leave at the rate of 2/3 of an employee's FLSA regular rate of pay, up to \$200 per day.
  - The County will pay 2/3 of an employee's daily hours at the employee's base wage or the FLSA regular rate of pay, whichever is higher, and will not cap pay at \$200 per day.
  - The County will require employees to supplement the 2/3 pay with EPSL, accrued, vacation, comp, and sick hours to meet the employee's FTE, consistent with the applicable MOU or Salary Resolution rules for use prior to using leave without pay.
  - If/when an employee has exhausted EPSL and used their accruals down to the minimum levels as outlined in their MOU/Salary Resolution to the employee can use leave without pay.
  - The 2/3 pay does not count towards the calculation of non-statutory overtime.
  - If an employee is scheduled to work an alternative shift or a schedule that allows them to work, including as a Disaster Services Worker, EFMLEA pay and supplementing accruals will not be recorded.