Temporary Emergency Leave Provisions

It is the County’s intention to maintain essential services in light of the COVID-19 pandemic while complying with the provisions of the federal Families First Coronavirus Relief Act (FFCRA) and accounting for employees who are required to telework but have no such telework available to them. Employees who are able and have been directed to telework are expected to perform their job duties in accordance with the Pandemic-related Temporary Telework Guidelines.

I. Purpose

This policy is for employees who need to access COVID-19 pandemic-related leave between April 1, 2020 – December 31, 2020. This policy does not replace County policy § P-86, “Leave Program.” All provisions of § P-86 not inconsistent with this policy apply and remain in effect. The provisions outlined in this policy are also consistent with § P-61, Staff Schedules, Time Tracking, and Compensation Policy.

II. Leave provisions under the Families First Coronavirus Relief Act (FFCRA)

A. Emergency Paid Sick Leave

Temporary paid leave for an employee who is expected to work and is unable to work (or unable to telework) due to COVID-19 for the following 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 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 subject to an order described in (1) or self-quarantine as described in (2);
5. The employee is caring for the employee’s son or daughter (under the age of 18 or otherwise has a mental or physical disability and is incapable of self-care because of that disability) due to the son or daughter’s school or place of care being closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions. (Emergency responders are not eligible to use Emergency Paid Sick Leave for this reason. Emergency responders include sworn law enforcement, uniformed fire rescue personnel, public safety communications officers/supervisors, and anyone who is supporting the critical infrastructure of emergency response operations).
6. The employee is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

Rules for use:
If eligible for the reasons stated above:
- Full-time employees will be granted a total of 80 hours of Emergency Paid Sick Leave to be paid at their regular rate of pay.
- Part-time employees will be granted a total of two-week equivalent amount of Emergency Paid Sick Leave based on their normal schedule and regular rate of pay.
- All employees are eligible for this program, including temporary employees.
- Emergency responders are eligible to use this leave type for all reasons listed above except reason #5 (child care).
- Emergency Paid Sick Leave may be used intermittently.

Employees requesting Emergency Paid Sick Leave must certify their need to use this leave by submitting the Emergency Paid Sick Leave certification form (or by submitting Emergency Leave for Childcare certification form (Reason #5)). The form includes the employee’s name, qualifying reason for requesting leave, statement that the employee is unable to work (including telework) for that reason, and the date(s) for which leave is requested.

Employees must attach supporting documentation (for example, a copy of the Federal, State or local quarantine or isolation order related to COVID-19 applicable to the employee or written documentation by a health care provider advising the employee to self-quarantine due to concerns related to COVID-19).

Employees who submit request and documentation for Emergency Paid Sick Leave for reason #5 above will also be evaluated for eligibility for Emergency Expanded Family and Medical Leave (additional information below). Eligible employees will have Extended Family and Medical Leave run concurrent with Emergency Paid Sick Leave use for reason #5.

**Exhaustion of Emergency Paid Sick Leave**

In the event that the employee cannot return to work due to their situation being consistent with reasons 1-4 and 6, the employee will use the employee’s accrued sick leave, annual leave, and compensatory time. Should no leave of a paid status remain, the employee may use COVID-19 Paid Administrative Leave.

In the event that the employee cannot return to work due to their situation being consistent with reason 5, employees eligible for Emergency Extended Family and Medical Leave will continue to use Emergency Expanded Family and Medical Leave (at the 2/3 rate). Employees who are not eligible for Emergency Expanded Family and Medical Leave may use the employee’s accrued annual leave or compensatory time, if approved as provided under County policy § P-86, “Leave Program.”

All unused Emergency Paid Sick Leave provided under this policy expires at 11:59 p.m. on December 31, 2020.

**Kronos/Timesheet Coding for Emergency Paid Sick Leave**
Employee’s own COVID-19-related reason (reasons 1 – 3):
Regular employees who need to use Emergency Paid Sick Leave for their own COVID-19 related reason (reasons 1 – 3 above [subject to a quarantine, advised to self-quarantine by a health care provider, or is experiencing symptoms and is pursuing medical diagnosis]) will use the COVID19- Sick Self Cascade leave code in Kronos. This code will cascade into the employee’s own available leave as articulated under Emergency Paid Sick Leave exhaustion. For non-Kronos employees, similar appropriate codes will be added; employees should note appropriate use of this leave type on the timesheet.

Temporary employees who need to use Emergency Paid Sick Leave for their own COVID-19 related reason (reasons 1 – 3 above [subject to a quarantine, advised to self-quarantine by a health care provider, or is experiencing symptoms and is pursuing medical diagnosis]) will have their supervisor apply the COVID19- Temp Emerg. Sick Self pay code in Kronos. For non-Kronos employees, similar appropriate codes will be added; employees should note appropriate use of this leave type on the timesheet.

Employees caregiving for COVID-19-related reason (reasons 4):
Regular employees who need to use Emergency Paid Sick Leave for caregiving for a COVID-19 related reason (reasons 4 above [caring for an individual subject to a quarantine, caring for an individual advised to self-quarantine by a health care provider]) will use the COVID19- Sick Family Cascade leave code in Kronos. This code will cascade into the employee’s own available leave as articulated under Emergency Paid Sick Leave exhaustion. For non-Kronos employees, similar appropriate codes will be added; employees should note appropriate use of this leave type on the timesheet.

Temporary employees who need to use Emergency Paid Sick Leave for a caregiving for a COVID-19 related reason (reason 4 above [caring for an individual subject to a quarantine, caring for an individual advised to self-quarantine by a health care provider, or child’s school/day care facility closure]) will will have their supervisor apply the COVID19- Temp Emerg. Sick Family pay code in Kronos. For non-Kronos employees, similar appropriate codes will be added; employees should note appropriate use of this leave type on the timesheet.

Employee’s childcare for COVID-19-related reason (reason #5):
Regular employees who need to use Emergency Paid Sick Leave for a caregiving for a COVID-19 related reason (reason 5 above [caring for child due to school/day care facility closure]) will use the COVID19- Family Childcare Cascade leave code in Kronos. For non-Kronos employees, similar appropriate codes will be added; employees should note appropriate use of this leave type on the timesheet.

Temporary employees who need to use Emergency Paid Sick Leave for a caregiving for a COVID-19 related reason (reason 5 above [caring for child due to school/day care facility closure]) will will have their supervisor apply the COVID19- Temp Emerg. Family Childcare pay code in Kronos. For non-Kronos employees, similar appropriate codes will be added; employees should note appropriate use of this leave type on the timesheet.
DHHS designated COVID-19-related reason (reason #6):
At this time, the U.S. Department of Health and Human Services has not issued specific guidance for this provision. If you believe that your situation might fall into this category, email mailto:mCOVID19@albemarle.org.

B. Emergency Expanded FMLA Leave
A temporary expansion of the Family and Medical Leave Act that gives eligible employees who have been employed by Albemarle County for a minimum of 30 days access to FMLA leave for the care of a son or daughter (under the age of 18 or otherwise has a mental or physical disability and is incapable of self-care because of that disability) whose school, care center, or care provider is closed or unavailable as a result of the COVID-19 pandemic (reason #5 above). Emergency responders are not eligible for this leave type.

Rules for use:
- The first 10 days are unpaid (or 10 days worth of hours if used intermittently). Employees may use Emergency Paid Sick Leave or the employee may choose to use the employee’s own sick leave cascade, annual leave, or compensatory time.
- Emergency Expanded FMLA may be used intermittently. Supervisors cannot request an employee using this leave to work during this time.
- Following the first 10 days (or 10 days worth of hours if used intermittently), leave of this type will paid as follows:
  - Full-time employees will be paid at 2/3 their regular rate of pay based on their normal work schedule
  - Part-time employees will be paid at 2/3 their regular rate of pay based on their normal work schedule
- Following the first 10 days (or 10 days worth of hour is used intermittently), paid leave taken for Emergency Expanded FMLA will not be supplemented by any other leave program (e.g., annual leave, sick leave, etc.)

Emergency Expanded FMLA is part of the combined 12 workweeks of job-protected leave that eligible employees may use per FMLA rolling year. Employees who:
- have used leave under the FMLA in the 12-month period prior to their request to use Emergency Expanded FMLA and have already exhausted their 12-week FMLA entitlement would not be eligible to use Emergency Expanded FMLA until a new rolling year begins
- have used leave under the FMLA in the 12-month period prior to their request to use Emergency Expanded FMLA and have not already exhausted their 12-week FMLA entitlement would be eligible to use Emergency Expanded FMLA for the time remaining in their FMLA entitlement during that rolling year

Eligibility to use this Emergency Expanded FMLA ends on December 31, 2020.

Required Certification of Emergency Expanded FMLA
Employees requesting Emergency Expanded FMLA must certify their need to use this leave by submitting the Emergency Leave for Childcare certification form (Reason #5). The form includes the employee’s name, qualifying reason for requesting leave, statement that the employee is unable to work, including telework, for that reason, and the date(s) for which leave is requested.

Employees must attach supporting documentation in support of this leave use. For example, this could include a notice that has been posted on a government, school, or daycare website, or published in a newspaper, or an email from an employee or official of the school, place of care, or child care provider.

**Exhaustion of Emergency Expanded FMLA**
In the event an employee exhausts Emergency Expanded FMLA, and the reasons for which Emergency Expanded FMLA remain, they may use their accrued annual leave or compensatory time if approved as provided under County policy § P-86, “Leave Program.” In the event that the employee exhausts both annual leave and compensatory time, the employee is not eligible for COVID-19 Paid Administrative Leave and may not use accrued sick leave.

**III. COVID-19 Paid Administrative Leave**
Temporary form of paid leave for regular employees who are not provided work by the County (either onsite or as telework) or do not have necessary technological infrastructure (i.e. broadband access) and therefore are unable to work due to work being unavailable as a result of the COVID-19 emergency declaration. Regular employees who are required to telework and have no such telework available as determined by the employee’s Department Head / Designee will be paid their normal rate of pay for time not worked up to their regularly scheduled hours. Temporary employees are not eligible for COVID-19 Paid Administrative Leave.

Regular employees who qualify for this paid administrative leave will use the COVID19-Admin Leave code in Kronos. For non-Kronos employees, a note to denote same should be made on the timesheet.

Regular employees who are expected to work and who have exhausted Emergency Paid Sick Leave for reasons 1-4, 6, above and have exhausted the employee’s own accrued leave, may also use COVID-19 Paid Administrative Leave if the employee cannot work and cannot telework. Use of COVID-19 Paid Administrative Leave for this reason requires certification as outlined above under Emergency Paid Sick Leave. Temporary employees are not eligible for COVID-19 Administrative Leave.

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