

AGENDA ITEM FOR ADMINISTRATIVE MEETING

() Discussion only

(X) Action

FROM (DEPT/ DIVISION): Human Resources

SUBJECT: Personnel Policy Update

<p>Background:</p> <p>On April 1, 2020, the county implemented a COVID-10 Emergency Leave Policy. The policy was in response to changes in federal law, which had a limited time factor, to provide paid sick leave for COVID-19 Issues. The policy was to be effective until December 31, 2020. The federal policy has been extended by Congress now until September 30, 2021. The option to extend the county policy through June 30, 2021, is before the Board for approval.</p>	<p>Requested Action:</p> <p>Approve Amended Policy 4.3(b) for COVID-19 Emergency Leave Policy</p>
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ATTACHMENTS: Proposed Policy

*****For Internal Use Only*****

Checkoffs:

- () Dept. Head (copy)
- () Human Resources (copy)
- () Fiscal
- (X) Legal (copy)
- () (Other - List:)

To be notified of Meeting:
Jennifer Blake

Needed at Meeting:

Scheduled for meeting on: March 17, 2021

Action taken:



UMATILLA COUNTY PERSONNEL POLICIES

POLICY TITLE: COVID-19 EMERGENCY LEAVE POLICY
POLICY NUMBER: 4.3 (B)
EFFECTIVE: April 1, 2020 to June 30, 2021

In response to changes in federal law (the Families First Coronavirus Response Act) and Oregon law (the Oregon Family Leave Act, per administrative regulation), Umatilla County issues the following temporary policy. This policy goes into effect April 1, 2020, and ends on June 30, 2021, unless specified below or unless Umatilla County announces a continuation of this policy in writing.

This policy does not replace Umatilla County's existing policies on FMLA, OFLA or sick leave, and should be read in conjunction with those policies.

Paid Sick Leave for COVID-19 Issues

If an employee is unable to work or telework due a qualifying reason related to the COVID-19 pandemic, they will be eligible to take paid leave as described below. All employees are eligible for this type of leave with two exceptions that are identified below. This leave is in addition to paid leave employees accrue under Umatilla County's Leave Policy and relevant Union Contracts; employees' accrued sick leave banks will not be withdrawn from for leave taken under this policy.

Exceptions

COVID-19 Paid Sick Leave is not available to health care providers or emergency responders for Qualifying Reasons (5) and (6).

For the purposes of employees who may be exempted from paid sick leave or expanded family and medical leave by their employer under the FFCRA, the following definitions apply:

HEALTH CARE PROVIDER: Anyone employed at any health care center, clinic, post-secondary education institution offering health care instruction, local health department or agency, home health 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.

This definition includes any individual employed by an entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility. This also includes 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.

EMERGENCY RESPONDER DEFINITION: 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, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, 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.

Qualifying Reasons for COVID-19 Paid Sick Leave

- (1) *Quarantine* — to comply with a federal, Oregon or local quarantine or isolation order related to COVID-19. This does not include situations where a city or county orders its residents to "shelter in place".
- (2) *Self-Quarantine* — to self-quarantine, if the employee has been advised to do so by a local healthcare provider.

- (3) *Diagnosis or Treatment* — to obtain a medical diagnosis or treatment if the employee is experiencing symptoms of COVID-19.
- (4) *Care for a Quarantined Individual* — to care for an individual required to be quarantined or advised to be quarantined.
- (5) *Child Care* — to care for an employee’s son or daughter if the son or daughter’s school or child care provider has been closed or is unavailable due to COVID-19-related issues.
- (6) *Substantially Similar Care* — to care for a substantially similar condition, as determined by the secretary of health and human services.

“Son or daughter” – For purposes of this paid sick leave, a “son or daughter” is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence.

Accrual of and Requesting COVID-19 Paid Sick Leave

Full-time employees will receive 80 hours of COVID-19 Paid Sick Leave. The number of hours of COVID-19 Paid Sick Leave available to part-time employees depends on the number of hours the employee is scheduled to work during a two-week period, and may be calculated using the average number of hours worked in the six months leading up to the leave’s start. As an example, if a part-time employee works, on average, 20 hours per week, the employee would be entitled to 40 hours of COVID-19 Paid Sick Leave.

Any unused COVID-19 Paid Sick Leave will not carry over past June 30, 2021. Employees will not be paid the value of any unused COVID-19 Paid Sick Leave if they quit, retire or are fired.

Although COVID-19 Paid Sick Leave is available to employees immediately, employees must follow departmental call in requirement for regular sick leave.

Further, employees will be expected to provide verification of the need for COVID-19 Paid Sick Leave, as follows:

- (1) *Quarantine* — A copy of the order from a federal, Oregon or local government entity requiring quarantine or isolation relating to COVID-19. This order must include the Employee’s name or other identifying information sufficient to allow Umatilla County to conclude that the order affects a particular employee.
- (2) *Self-Quarantine* — Written verification of the need to self-quarantine from the employee’s healthcare provider.
- (3) *Diagnosis or Treatment* — Written verification from the employee’s health care provider of the employee’s effort to receive a medical diagnosis for COVID-19 or treatment if the employee is experiencing symptoms of COVID-19.
- (4) *Care for a Quarantined Individual* — A copy of the order or other documentation from a federal, Oregon or local government regarding the individual’s requirement to be quarantined that includes the individual’s name, or written verification of the need to quarantine from the individual’s health care provider.
- (5) *Child Care* — No verification required for school closures due to COVID-19 issues if evidence of closure is publicly available. Written verification from the child care provider about its/his/her unavailability to provide child care due to COVID-19-related issues.
- (6) *Substantially Similar Care* — Written verification of the employee’s need to stay home from work from the employee’s health care provider.

Caps on Value of COVID-19 Paid Sick Leave

For leave due to reasons (1), (2) or (3), above, an employee will earn the employee’s regular rate of pay, capped at \$511 per day, for a maximum of \$5,110 (over a two-week period).

For leave due to reasons (4), (5) o4 (6), above, an employee will earn 2/3 of the employee’s regular rate of pay, capped at \$200 per day, for a maximum of \$2,000. Note, however, that additional paid leave may be available to employees who take School Closure Leave, discussed below.

Employees who receive COVID-19 Paid Sick Leave cannot utilize other employer provided leave to meet their full salary expectations.

Family Medical Leave Act and Oregon Family Leave Act

Policy for School Closures

Employees may be eligible to receive time off under FMLA and/or OFLA when the employee is unable to work (or telework) due to a need to care for a son or daughter if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency.

The leave of absence available under this policy, under FMLA and OFLA, will be referred to as “School Closure Leave”, regardless of the terminology used in both laws. If not specifically addressed in this policy, all other provisions in Umatilla County’s FMLA/OFLA Policy apply.

Exceptions

School Closure Leave under FMLA is not available to health care providers or emergency responders. School Closure Leave may be available to health care providers and emergency responders under OFLA, however, if the Eligibility Requirements are met (discussed below).

For the purposes of employees who may be exempt from paid sick leave or expended family and medical leave by their employer under FFCRA, the following definitions apply.

HEALTH CARE PROVIDER: Anyone employed at any health care center, clinic, post-secondary education institution offering health care instruction, local health department or agency, home health 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.

This definition includes any individual employed by an entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility. This also includes 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.

EMERGENCY RESPONDER DEFINITION: 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, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, 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.

Definitions

“Son or daughter” – For purposes of FMLA leave, a “son or daughter” is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis* who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence. For purposes of OFLA, “child” includes a biological, adopted, foster or stepchild, the child of a registered same-sex domestic partner or a child with whom the employee is in a relationship of *in loco parentis*. For purposes of OFLA, the “son or daughter” must be under the age of 18 or over 18 if incapable of self-care.

“Place of care” includes child care providers, and means a provider who receives compensation for providing child care services on a regular basis,

“School” means elementary or secondary school. Community college, university, college, or other post-secondary schools are not included.

Eligibility Requirements

FMLA: Employees who have worked for Umatilla County in the 30 calendar days leading up to the start of the School Closure Leave.

OFLA: Employees who have been employed for at least 180 days and worked an average of at least 25 hours per week leading up to the start of the School Closure Leave.

Length of Leave

FMLA: Up to 12 weeks of leave, to be taken any time during the period of April 1, 2020, and June 30, 2021. If a FMLA leave under this policy is started on March 1, 2021 (for example), the employee will not be allowed to continue the leave past March 31, even if the employee still has available FMLA leave.

OFLA: Up to 12 weeks of unpaid leave, to be taken when employees need to care for a child whose school or place of care was closed due to a statewide public health emergency declared by a public health official, even if the child is not sick.

School Closure Leave under these laws will run concurrently, where applicable. Umatilla County will apply the law that is most generous to the employee if the School Closure Leave runs concurrently.

Employees who have already exhausted 12 weeks of FMLA and/or OFLA leave in the Umatilla County’s rolling 12 months period may not be eligible to take an additional 12 weeks of School Closure Leave, depending on the employee’s eligibility under FMLA and OFLA.

Notice and Verification

FMLA: Where the necessity for School Closure Leave is foreseeable, an employee shall provide the employer with as much notice as practicable.

OFLA: Employees must provide at least 30 days’ notice before School Closure Leave is to begin if the reason for leave is foreseeable. If 30 days’ notice is not foreseeable or practical, an employee must give verbal or written notice to Umatilla County within 24 hours of commencement of the leave.

Under both laws’ School Closure Leave, no verification is required for school closures due to a public health emergency if evidence of closure is publicly available. Written verification from the “place of care” about its/his/her unavailability to provide child care due to a public health emergency is required.

Benefits During Leave

FMLA: The first ten days of leave are unpaid; employees may, however, use COVID-19 Paid Sick Leave during this period.

After the first ten days of School Closure Leave, and for each day thereafter, Umatilla County will provide paid leave calculated at two-thirds of an employee’s regular rate of pay and the number of hours the employee would otherwise be normally be scheduled to work. Paid leave will not exceed \$200 per day, or \$10,000 in the aggregate (covering a 10-week period).

Employees who receive School Closure Leave may supplement their pay with accrued COVID-19 Paid Sick Leave but they will not be paid from both School Closure Leave and COVID-19 same hours and cannot utilize other employer provided leave to meet their full salary expectations.

OFLA: OFLA School Closure Leave is unpaid. Employees may, however, use any accrued paid leave during the period of OFLA School Closure Leave.

If an employee is on approved School Closure Leave under either or both laws, Umatilla County will continue the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. An employee wishing to maintain health insurance during a period of approved School Closure Leave will be responsible for bearing the cost of his/her share of group health plan premiums which had been paid by the employee prior to the School Closure Leave. Employees will not accrue vacation, sick leave or other benefits (other than health insurance) while the employee is on a School Closure Leave. The leave period, however, will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in Umatilla County benefit plans.

Job Protection

FMLA and OFLA: Employees returning to work from School Closure Leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring School Closure Leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated School Closure Leave period, reinstatement may not be available unless the law requires otherwise.

No-Retaliation

Umatilla County will issue discipline, up to and including termination, to anyone who retaliates against an employee who asks about, requests or uses School Closure Leave or COVID-19 Paid Sick Leave.

BOARD OF COMMISSIONERS BY

GEORGE L. MURDOCK, CHAIR

DATE ADOPTED

COVID-19 EMERGENCY LEAVE REQUEST FORM

To request leave as provided under the Families First Coronavirus Response Act and Umatilla County's COVID-19 Emergency Leave Policy, please complete the following request form, provide required supporting documentation and submit human resources department as soon as possible before leave commences. Verbal notice will be accepted until a form can be provided.

Employee Name (print clearly): _____

Department: _____

Requested Leave Start Date: _____ Estimated End Date: _____

Please mark the box next to the category for which you are requesting leave. Employees will be expected to provide verification of the need for COVID-19 Paid Sick Leave, as follows:

- (1) *Quarantine* — A copy of the order from a federal, Oregon or local government entity requiring quarantine or isolation relating to COVID-19. This order must include the Employee's name or other identifying information sufficient to allow Umatilla County to conclude that the order affects a particular employee.
- (2) *Self-Quarantine* — Written verification of the need to self-quarantine from the employee's healthcare provider.
- (3) *Diagnosis or Treatment* — Written verification from the employee's health care provider of the employee's effort to receive a medical diagnosis for COVID-19 or treatment if the employee is experiencing symptoms of COVID-19.
- (4) *Care for a Quarantined Individual* — A copy of the order or other documentation from a federal, Oregon or local government regarding the individual's requirement to be quarantined that includes the individual's name, or written verification of the need to quarantine from the individual's health care provider.
- (5) *Child Care* — No verification required for school closures due to COVID-19 issues if evidence of closure is publicly available. Written verification from the child care provider about its/his/her unavailability to provide child care due to COVID-19-related issues. Provide the name of the son or daughter being cared for, the name of the school, place of care, or child care provider that has closed or become unavailable, and a representation that no other suitable person will be caring for the son or daughter during the period for which the employee takes COVID-19 Paid Sick Leave.
- (6) *Substantially Similar Care* — Written verification of the employee's need to stay home from work from the employee's health care provider.

Caps on Value of COVID-19 Paid Sick Leave – Paid leaves effective through June 20, 2021

For leave due to reasons (1), (2) or (3), above, an employee will earn the employee's regular rate of pay, capped at \$511 per day, for a maximum of \$5,110 (over a two-week period).

For leave due to reasons (4), (5) or (6), above, an employee will earn 2/3 of the employee's regular rate of pay, capped at \$200 per day, for a maximum of \$2,000.

- I elect to use my COVID-19 Sick Leave Pay, effective April 1, 2020, and understand compensation is based on the selection above and appropriate documentation.
- Reason #5 I elect to use my expanded FFCRA leave to cover my absence due to school closure or unavailability of child care due to COVID-19. I understand the first 10 days of this leave is unpaid, thereafter, I will earn 2/3 of my regular rate of pay, capped at \$200 per day, for a maximum of \$10,000.
- I further elect to use my COVID-19 Sick Leave Pay to cover the first 2 weeks of unpaid FFCRA leave to cover my absence due to school closure or unavailability of child care due to COVID-19. I understand I will earn 2/3 of my regular rate of pay, capped at \$200 per day, for a maximum of \$2,000.

Employee Signature/Date