

Jefferson County Temporary Emergency Leave Policy

In response to temporary changes in federal and state laws: Families First Coronavirus Response Act and the Oregon Family Leave Act.

Jefferson County issues the following temporary policy, subject to modification or revocation.

Includes:

- **Federal Paid Sick Leave for COVID-19 Issues**
- **Family Medical Leave Act and Oregon Family Leave Act Policy for School Closures**
- **Policies Specific to Jefferson County**
- **Payroll Information Guidance**

This policy goes into effect April 1, 2020 and ends on December 31, 2020, unless specified below or unless Jefferson County announces a continuation of this policy in writing. This policy does not replace Jefferson County's existing policies on FMLA, OFLA or sick leave and should be read in conjunction with those policies and/or any related language in the Collective Bargaining Agreements.

Questions about this policy should be directed to Human Resources or County Counsel.

Federal Paid Sick Leave for COVID-19 Issues

If an employee is unable to work or telework due to a qualifying reason related to the COVID-19 pandemic, they will be eligible to take 80 hours of paid leave as described below (less than full-time employees will receive a pro-rated number of hours). All employees are eligible for this type of leave. This leave is in addition to paid leave that employees accrue under Jefferson County's Sick Leave Policy, employees' accrued sick leave banks will not be withdrawn from for leave taken under this policy.

For purposes of this paid sick leave, a "Child" is a biological; adopted; foster child; stepchild; 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.

Any unused COVID-19 Paid Sick Leave will not carry over into 2021. Employees will not be paid the value of any unused COVID-19 Paid Sick Leave if they resign, retire or are terminated.

Although COVID-19 Paid Sick Leave is available to employees immediately, employees must follow Jefferson County's call in policy for regular sick leave.

Qualified Reasons for COVID-19 Federal Paid Sick Leave

- (1) **Quarantine:** A copy of the order from a federal, state or local government entity requiring quarantine or isolation relating to COVID-19. This order must include the Employee's name and/or other identifying information sufficient to allow Jefferson 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 healthcare 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).
- (4) **Care for a Quarantined Individual:** A copy of the order or other documentation from a federal, state 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 healthcare provider.
- (5) **Child Care:** There is 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 their 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 Federal Paid Sick Leave

For leave due to reasons (1), (2) or (3) as stated above, an employee will earn the employee's regular rate of pay, equal to or less than \$511.00 per day, with a maximum limit over a two week period of \$5,110.00.

For leave due to reasons (4), (5) or (6), as stated above, an employee will earn 2/3 (two thirds) of the employee's regular rate of pay, equal to or less than \$200.00 per day, with a maximum limit over a two week of \$2,000.00. (Note: Additional paid leave may be available to employees who take School Closure Leave, see below.)

Employees who receive COVID-19 Paid Sick Leave may supplement this pay with accrued sick leave or vacation time to meet their full salary expectations, but they will not be paid from both COVID-19 Paid Sick Leave and vacation/sick leave for the same hours.

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 child if the school or place of care has been closed, or the child care provider of such child is unavailable due to 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 Jefferson County Family Leave Policy applies.

Definitions

"Child" – For purposes of FMLA leave, a "Child" is a biological; adopted; foster child; stepchild; 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; 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 “Child” 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 been employed by Jefferson County for 30 calendar days leading up to the start of the eligible School Closure Leave.

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

Length of Leave

FMLA: Up to 12 weeks of leave, to be taken anytime during the period of April 1, 2020, and December 31, 2020. FMLA leave under this policy cannot extend beyond December 31, 2020, even if the employee still has available FMLA leave hours remaining.

OFLA: Up to 12 weeks of unpaid leave to be taken anytime. (UPDATED 9/14/2020)

School Closure Leave under FMLA and OFLA will run concurrently, where applicable. Jefferson County will apply the law that is most generous to the employee if the School Closure Leave runs concurrently.

Notice and Verification

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

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

Under both FMLA and OFLA, School Closure Leave requires no verification for school closures due to a public health emergency if evidence of closure is publicly available. However, 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 use COVID-19 Paid Sick Leave or any other accrued paid leave during this period.

After the first ten days of School Closure Leave and for each day thereafter, Jefferson County will provide paid leave calculated at 2/3 (two-thirds) of an employee's regular rate of pay and the number of hours the employee would otherwise normally be scheduled to work. Paid leave will not exceed \$200.00 per day, or \$10,000.00 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, sick leave or vacation time under Jefferson County's policies to meet their full salary expectations. Employees will not be paid from both School Closure Leave and COVID-19 Paid Sick Leave, vacation leave or sick leave for the same hours.

OFLA: OFLA School Closure Leave is unpaid; however, employees may 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 FMLA or OFLA, Jefferson 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 Jefferson 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 has 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

Jefferson 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.

Policies Specific to Jefferson County

In addition to the new Federal and State Laws, Jefferson County has devised Social Distancing Essential & Non-Essential COVID Policy and the Temporary Policy-Response to COVID-19. These with any other temporary policies are to encourage employees who are experiencing symptoms to stay away from work and self-isolate at home. The policies and new temporary emergency leave laws are changing as the situation progresses and will be updated as needed.

Negative Sick Leave Balances: Eligible employees who are experiencing or have a household family member experiencing symptoms of COVID-19, identified by the Oregon Health Authority (OHA) as fever, cough, and difficulty breathing, are allowed to incur a negative sick leave balance up to negative 80 hours. Employees must use all other paid leave prior to incurring a negative sick leave balance.

Additional requirements:

1. Employees must be absent from work for an entire shift (example 8, 10 or 12 hours).
2. Employees must commit to following OHA and CDC guidelines for home isolation.

Extending the time away from work before requiring a physician's note: Eligible employees who are experiencing symptoms of COVID-19, identified by OHA as fever, cough, and difficulty breathing, will not be required to present a physician's note prior to returning to work unless an employee has been absent for 15 days or more when the employee is following OHA and CDC guidelines for home isolation.

In the event any employee group represented by a collective bargain agreement desires to have these same measures implemented or meet and discuss alternatives, should notify the County. These temporary changes will only be offered with the recognition that it is not a change in working conditions, does not constitute a "past practice", and recognize the County may revoke or modify these temporary measures at any time and for any reason without notice to employees or collective bargain groups.

The CDC guidelines for home isolation can be found on the following website:

<https://www.cdc.gov/coronavirus/2019-ncov/about/steps-when-sick.html>

March 23, 2020 Temporary Policy: See attachment

Payroll Information Guidance: See attachment