


<p>POLICY/PROCEDURE TITLE: County-Wide Procedure HR-06 <u>Federal Families First Coronavirus Response Act (FFCRA) /</u> <u>Emergency Family & Medical Leave and</u> <u>Emergency Paid Sick Leave</u></p>	<p>DATE ISSUED: May 28, 2020</p>
<p>DEPARTMENT ISSUING: Human Resources</p>	<p>AUTHORIZED and SIGNED BY: Marisa E. Howard Director of Human Resources </p>

<p>POLICY DECLARATION</p>	<p>This policy is the County’s implementation of the Families First Coronavirus Response Act (FFCRA). The FFCRA provides employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19.</p>
<p>OBJECTIVE</p>	<p>This policy is the County’s implementation of the Families First Coronavirus Response Act (FFCRA). The FFCRA provides employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. The FFCRA has two components: a) <i>The Emergency Paid Sick Leave Act</i> (“EPSLA”), which provides up to two weeks of paid sick leave for qualifying reasons; and b) The Emergency Family and Medical Leave Expansion Act (“EFMLEA”), which expands the protections of the Family and Medical Leave Act (FMLA) to provide paid benefits for an employee caring for a child whose school or place of care is closed, or whose care provider is unavailable for reasons related to COVID-19. The qualifying reasons for the EPSLA are if the employee is unable to work (including being unable to work remotely) due to a need for leave because the employee: 1) is subject to a federal, State or local quarantine or isolation order related to COVID-19; 2) has been advised by a health care provider to self-quarantine due to COVID-19 concerns; 3) is experiencing COVID-19 symptoms and is seeking a medical diagnosis for same; 4) is caring for an individual who is subject to an order described in (1) or who is or is self-quarantined as described in (2); 5) is caring for a child whose school or place of care is closed, or whose child care provider is unavailable, for reasons related to COVID-19; 6) is experiencing any other “substantially similar condition” specified by the U.S. Secretary of Health and Human Services in consultation with the Secretaries of Labor and Treasury.</p> <p>This policy also applies to the employees of Nassau Community College.</p> <p>The attached policy deals only with employee benefits pursuant to the FFCRA; it does not include any additional benefits afforded to Nassau</p>

	County employees pursuant to their respective collective bargaining agreements, other federal and State laws (including, but not limited to, the State’s COVID-19 Leave Law), local ordinances and laws, or County policies. Applicable collective bargaining agreements, federal and State laws, local ordinances and laws, and County policies must also be reviewed in order to coordinate them with an employee's rights in accordance with the FFCRA.
PURPOSES:	To establish a policy and guidelines for the use of FFCRA leave for employees of Nassau County. The policy and guidelines do not represent a complete description of the law or regulations, which can be found in 29 U.S.C.A. §2620 (the EFLMEA); Pub. L. 116-127, Div. E, §§5101-5111 (the EPSLA); and 29 CFR Part 826 (U.S. Department of Labor Temporary Rule for the EFMLEA and EPSLA)
SCOPE:	All Nassau County Departments and Agencies and Nassau Community College.
DEFINITIONS:	<p>Child: means a biological, adopted, foster child, stepchild, legal ward, or a child of a person acting as a parent who is under the age of 18, or who is 18 or older and incapable of self-care because of a physical or mental disability.</p> <p>Eligible Employee: an employee is eligible for leave pursuant to the EPSLA without regard to length of service. An employee is entitled to leave to care for a child pursuant to the EFMLEA if the employee has been employed by Nassau County for at least 30 days. Employees rehired after being laid off / terminated on or after March 1, 2020 and are rehired by the County before December 31, 2020, are entitled to EFMLEA, if the employee was on the County’s payroll for not less than 30 days of the 60 calendar prior to the layoff/ termination.</p> <p>Consistent with FFCRA, the County excludes from coverage all emergency responders and medical providers within the County including, but not limited to, all employees in the Departments / Offices of Emergency Management, Fire Commission, Health, Probation, Police, Public Works, Medical Examiners, Sheriff and Correctional Center.</p> <p>An eligible full-time employee is any employee who is regularly scheduled to work a minimum of 40 hours per week. An eligible part-time employee is any employee who is regularly scheduled to work less than 40 hours per week.</p> <p>Emergency Responder: “Emergency responder” has the same meaning as set forth in 29 CFR §826.30(c)(2) and includes, among others, all employees serving in the Departments / Offices of Emergency Management, Fire Commission, Health, Medical Examiners, Probation,</p>

Police, Public Works, Sheriff and Correctional Center.

Eligibility Period: leaves of absence during the period April 1, 2020 to December 31, 2020 for a qualifying reason related to COVID-19 in accordance with the EPSLA or EFMLEA.

Health Care Provider: A health care provider is anyone employed at any of the following: any doctor's office, hospital, health care center or clinic; post-secondary educational institution offering health care instruction, or medical school; local health department or agency; nursing facility, retirement facility, or nursing home; home health care provider; any facility that performs laboratory or medical testing; pharmacy; or any similar institution, employer, or entity.

Qualifying Reason for FFCRA: an employee qualifies for leave pursuant to the FFCRA if the employee is unable to work (including being unable to work remotely) due to a need for leave because the employee:

1. Is subject to a federal, State, or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. Is experiencing COVID-19 symptoms (identified by the U.S. Centers for Disease Control and Prevention (CDC)) and is seeking a medical diagnosis from a health care provider;
4. Is caring for an individual subject to an order described in (1) or who is self-quarantined as described in (2);
5. Is caring for his/her child whose school or place of care is closed, or child care provider is unavailable, for reasons related to COVID-19;
6. Is experiencing any other "substantially similar condition" specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Self-Quarantine: is when the employee is advised by a health care provider to self-isolate due to the health care provider's belief that the employee has, may have, or is particularly vulnerable to, COVID-19.

Subject to a Quarantine or Isolation Order: For purposes of the EPSLA, a quarantine or isolation order includes quarantine, isolation, containment, shelter-in-place, or stay-at-home orders issued by any federal, State, or local government authority that cause the employee to be unable to work even though his or her employer has work that the employee could perform but for the order. This also includes when a federal, State or local government authority has advised categories of

	<p>citizens (e.g., of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of employees to be unable to work even though their employers have work for them.</p> <p>Telework (Working Remotely): The term “Telework” means work the County permits or allows an employee to perform while the employee is at home or at a location other than the employee’s normal workplace.</p>
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INTRODUCTION:

As provided by the FFCRA, all **eligible employees** shall be entitled to a limited paid, job-protected leave with health benefits for leaves of absence for a qualifying reason related to COVID-19 for a leave that occurs during the eligibility period of April 1, 2020 to December 31, 2020.

The benefits that an employee will be entitled to receive are based on the qualifying reason(s) for the leave. Each qualifying reason has specific durations and amounts payable to the employee. If an employee takes leave pursuant to this policy, the employee retains his/her health insurance in accordance with the same terms that the employee had prior to the leave.

In addition, the employee is entitled to receive any additional benefits afforded to Nassau County employees pursuant to their respective collective bargaining agreements, other federal and State laws, local ordinances and laws, or County policies. Applicable collective bargaining agreements, federal (including the FMLA) and State laws, local ordinances and laws, and County policies must be consulted in order to coordinate them with an employee's rights under the FFCRA.

I. QUALIFYING LEAVE AND BENEFITS

<p>QUALIFYING LEAVES</p>	<ol style="list-style-type: none"> 1. <u>If an employee is requesting leave because the employee is subject to a federal, State, or local quarantine or isolation order related to COVID-19:</u> <ol style="list-style-type: none"> A. A full-time employee is eligible for up to 80 hours of leave and a part-time employee is eligible for leave equal to the average number of hours that the employee works over a two-week period. B. The employee is entitled to his/her regular rate of pay for the hours described in subparagraph “A.” However, this amount is limited to \$511.00 per day or \$5,110.00 over the two week period even if the employee’s regular rate of pay would have been greater than \$511/ day. 2. <u>If an employee is requesting leave because the employee has been advised by a health care provider to self-quarantined related to COVID-19:</u> <ol style="list-style-type: none"> A. A full-time employee is eligible for up to 80 hours of leave and a part-time employee is eligible for leave equal to the
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average number of hours that the employee works over a two-week period.

B. The employee is entitled to his/her regular rate of pay for the hours described in subparagraph "A." However, this amount is limited to \$511.00 per day or \$5,110.00 over the two week period even if the employee's regular rate of pay would have been greater than \$511/ day.

3. If an employee is requesting leave because the employee is experiencing COVID-19 symptoms (identified by the U.S. Centers for Disease Control and Prevention (CDC)) and is seeking a medical diagnosis from a health care provider;

A. An employee is eligible for up to 80 hours of leave and a part-time employee is eligible for the number of hours of leave the employee works on average over a two-week period.

B. The employee is entitled to his/her regular rate of pay for the hours described in subparagraph "A." However, this amount is limited to \$511.00 per day or \$5,110.00 over the two week period even if the employee's regular rate of pay would have been greater than \$511/ day.

4. If the employee is caring for an individual subject to an order described in (1) or who is self-quarantined as described in (2);

A. An employee is eligible for up to 80 hours of leave and a part-time employee is eligible for the number of hours of leave the employee works on average over a two-week period.

B. An employee is eligible for pay at 2/3 of his/her regular rate of pay. This amount is limited to \$200.00 per day and \$2,000.00 over the two week period even if the employee's regular rate of pay would have been greater than \$200/ day.

5. Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19;

A. Pursuant to the EPSLA, an employee is eligible for up to 80 hours of leave and a part-time employee is eligible for the number of hours of leave the employee works on average over a two-week period pay at 2/3 of his/her regular rate of pay. This amount is limited to \$200.00 per day and \$2,000.00 over the two-week period.

B. If an employee has been on the County's payroll for at least 30 days, the employee would also be entitled to benefits under the EFMLEA. Pursuant to the EFMLEA

	<p>the first 10 days of leave are unpaid. The employee may subsequently be entitled to up to an additional 10 weeks of paid leave. The employee may choose to take the initial 10 days of EFMLEA as unpaid leave; as leave under the EPSLA (if this leave has not already been exhausted); or use their leave accruals.</p> <p>C. Pursuant to the EFMLEA an employee is eligible for pay at 2/3 of his/her regular rate of pay for weeks 3 to 12. This amount is limited to \$200.00 per day and \$10,000.00 over the EFMLEA period even if the employee’s regular rate of pay would have been greater than \$200/ day.</p> <p>D. Leave taken pursuant to the EFMLEA to care for a child whose school or place of care is closed is counted as leave pursuant to the FMLA and may affect the extent of an employee’s future entitlement to FMLA leave.</p> <p>If an employee has requested EFMLEA leave to care for his or her child whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons, his/her leave entitlement pursuant to EFMLEA may be limited if the employee has taken FMLA leave within the last 12 months. If the employee has taken some FMLA leave within the last 12 months but not all 12 weeks, the employee may take the remaining portion of FMLA leave available. If the employee has already taken 12 weeks of FMLA leave in the last 12 months, the employee may not take additional time under EFMLEA.</p> <p>6. <u>Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.</u></p> <p>A. An employee is eligible for up to 80 hours of leave and a part-time employee is eligible for the number of hours of leave the employee works on average over a two-week period.</p> <p>B. An employee is eligible for pay at 2/3 of his/her regular rate of pay. This amount is limited to \$200.00 per day and \$2,000.00 over the two week period even if the employee’s regular rate of pay would have been greater than \$200/day.</p>
<p>GENERAL BENEFITS AND RULES</p>	<p>1. Pursuant to the FFCRA, a full-time employee is any employee who works at least 40 hours per week. Part-time employees are employees that work less than 40 hours per week.</p>

	<ol style="list-style-type: none"> 2. Leave that an employee has taken prior to April 1, 2020 shall not be counted toward the amount of excused leave authorized by this policy. 3. An employee may choose to use their leave entitlements (sick, vacation, or personal leave) in lieu of taking leave under the EPSLA. All terms and conditions regarding the use of leave accruals are pursuant to terms of the respective collective bargaining agreement. 4. Departments and Agencies may not require employees to charge absences to other accrued leave during the period of leave under the EPSLA and the EFMLEA authorized by this policy. 5. Health Insurance. During a period of leave under the EPSLA and the EFMLEA, an employee will be retained under Nassau County's insurance plans based upon the same conditions that applied as if the employee had been continuously employed during the entire leave period. If the employee is required to make any contributions to their health insurance (including dental and / or vision) they must continue to make timely payments. 6. All employees must continue to follow the call-in procedures of their respective departments. 7. Employees accrue leave benefits only while they remain in a paid status. The type and leave benefits are dictated by the respective collective bargaining agreement and/or ordinance.
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II. REQUESTING FFCRA LEAVE

<p>LEAVE REQUEST FORM</p>	<p>All employees requesting leave pursuant to this policy must complete the Leave Request Form available from their Department Head, Department Human Resources Representative or from the Nassau County Human Resources (“County Human Resources”).</p> <p>Any request for leave should include: the employee’s name, employee ID number, qualifying reason(s) for requesting leave, a statement that the employee is unable to work, (including working remotely) for the qualifying reason(s) provided, and the date(s) for which leave is requested.</p>
<p>SUPPORTING INFORMATION</p>	<p>The employee may be required to submit additional information and /or documentation, upon request to support any request for leave pursuant to this policy. The documentation that an employee may be required to</p>

<p>AND DOCUMENTATION</p>	<p>submit will depend on the qualifying reason that is the basis for the employee’s leave request.</p> <ul style="list-style-type: none"> A. If the employee is seeking leave pursuant to a quarantine or isolation order, the employee must provide the source of any quarantine or isolation order B. If the employee is seeking leave based on an order to self-quarantine, the employee must provide the name of the health care provider who has advised the employee to self-quarantine. C. An employee requesting paid sick leave to care for an individual must provide either (1) the name of the government entity that issued the quarantine or isolation order to which the individual is subject; or (2) the name of the health care provider who advised the individual to self-quarantine, depending on the precise reason for the request; D. If the employee is seeking leave to take care of a child whose school or place of care is closed due to COVID-19 related reasons, the employee must provide the name of the child(ren) being cared for; the name of the school/care place/ care provider that is closed/unavailable; and a statement that no other suitable person is available to care for the child during the period of the requested leave.
<p>SUPPORTING STATEMENT</p>	<p>All requests for leave must include a statement that the employee is not capable of working, including working remotely.</p>

III. REINSTATEMENT TO WORK AFTER FFCRA LEAVE

REINSTATEMENT	An employee eligible for leave pursuant to this policy will be restored to his or her <i>original position</i> or to an <i>equivalent position</i> with equivalent pay and benefits, and other terms and conditions of employment, except where the applicable collective bargaining agreement otherwise requires. Nassau County cannot guarantee that an employee will be returned to his or her original job. County Human Resources will determine whether a position is an "equivalent position".
MEDICAL NOTE	Prior to returning from a leave in accordance with this policy for qualifying reasons (1), (2) and (3), an employee must provide a medical note stating that they may return to work and perform regular duties (with or without accommodation).

VI. CONFIDENTIALITY

CONFIDENTIALITY	<p>Documents and records that relate to medical certifications, recertification's or medical histories of employees or employees' family members will be treated as confidential medical records and will be maintained in accordance with all applicable laws, rules, and regulations governing those records.</p> <p>All records regarding leaves pursuant to this policy will be maintained for a minimum of 4 years.</p>
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