

**Harris County Personnel Policies and Procedures**  
**Section 14. FAMILIES FIRST CORONAVIRUS RESPONSE ACT**  
**Question and Answer**

COVID-19 FMLA Leave

**Q: What is COVID-19 FMLA leave?**

A: COVID-19 FMLA leave is a new use of FMLA that allows eligible employees who have worked for the County at least 30 calendar days to take up to 12 weeks of job-protected leave if an employee is unable to work or telework because the employee is needed to care for the employee's son or daughter (who is under the age of 18) due to the child's school or childcare facility has been closed or the child's childcare provider is unavailable due to the public health emergency. COVID-19 FMLA Leave is paid as opposed to regular FMLA leave and expires December 31, 2020.

**Q: Who qualifies for COVID-19 FMLA leave?**

A: Any employee who is not a health care provider or emergency responder and who has worked for the County for at least 30 calendar days is eligible to take FMLA leave if they are unable to work or telework because the employee is needed to care for the employee's son or daughter (who is under the age of 18) due to the child's school or childcare facility being closed or the child's childcare provider is unavailable due to the public health emergency.

**Q: Can employees take COVID-19 FMLA when their child's school is closed?**

A: Only if their child's school is closed because of a public health emergency, and they are unable to work or telework because of childcare needs.

**Q: Can more than one guardian take COVID-19 FMLA (or COVID-19 Sick Leave) to care for an employee's child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons?**

A: No. Employees may only take COVID-19 FMLA leave (or COVID-19 Sick Leave) to care for their child when they need to, and actually are, caring for their child and are unable to work or telework as a result of providing care. Generally, employees do not need to take such leave if a co-parent, co-guardian, or their usual child care provider is available to provide the care for their child's needs.

**Q: How is an employee paid while taking COVID-19 FMLA leave?**

A: For the first 10 days of COVID-19 FMLA leave, the employee can elect to take unpaid leave or substitute any accrued vacation, compensatory time, or COVID-19 Sick Leave.

After the first 10 days of COVID-19 FMLA leave, the County will pay the employee two-thirds (2/3) of the employee's regular hourly rate of pay for the number of hours the employee is regularly scheduled to work. Wages are capped at \$200 a day and \$10,000 in the aggregate. Employees on COVID-19 FMLA leave cannot substitute

any other available paid leave in order to receive their full regular rate of pay after the first 10 days of COVID-19 FMLA leave.

**Q: Are employees entitled to an additional 12 weeks of FMLA leave for COVID-19 FMLA leave?**

A: No, total leave under the FMLA has not changed. COVID-19 FMLA leave is a new use of FMLA and counts against an employee's regular 12 weeks of FMLA entitlement. COVID-19 FMLA leave and FMLA leave for existing FMLA-qualifying situations is limited to 12 weeks total.

**Q: If an employee has already used FMLA leave or exhausted their FMLA leave entitlement for the applicable 12-month period, can they take additional leave COVID-19 FMLA?**

A: No, employees do not get additional FMLA leave time for COVID-19 FMLA leave. Employees who have exhausted all 12 weeks of FMLA leave will not be eligible to take additional leave for COVID-19 FMLA. Similarly, if employees have used some FMLA leave during the applicable 12-month period, then the amount of leave employees can take for COVID-19 FMLA will be limited to their remaining FMLA leave balance.

**Q: Can employees who only qualify for COVID-19 FMLA leave take FMLA for FMLA qualifying events other than child care disruption?**

A: No, if an employee qualifies to take COVID-19 FMLA leave, but has not worked for the County for at least a year and worked 1250 hours the year prior, the employee is not eligible to take FMLA leave for existing FMLA-qualifying situations and can only take FMLA leave for child care disruption.

**Q: Can the employee accrue negative comp time during the first 10 days of COVID-19 FMLA leave?**

A: Only if the employee has no available paid leave available, including COVID-19 Sick Leave.

**Q: Can employees use their available paid leave beyond the first 10 days of COVID-19 FMLA leave usage?**

A: No, after the first 10 days of COVID-19 FMLA leave, employees cannot use available paid leave or substitute available paid leave in order to receive their full regular rate of pay while using COVID-19 FMLA leave.

**Q: Can COVID-19 FMLA leave be taken on an intermittent basis?**

A: Yes and no. Employees must use COVID-19 FMLA for school closure or childcare disruption in *full day increments*. The law anticipates that a parent will know when they need leave under this provision. Therefore, if the need for COVID-19 FMLA leave is foreseeable, an employee must provide notice as soon as practicable.

Employees may take COVID-19 FMLA leave in full day increments on an intermittent basis only if their department head agrees upon such a schedule. For example, if the department head and the employee agree, the employee may take COVID-19 FMLA leave on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while the employee's child is at home because the child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, for the duration of the employee's leave.

### COVID-19 Sick Leave

**Q: Which employees are eligible to use COVID-19 Sick Leave?**

A: All County employees who are not health care providers and emergency responders, regardless of how long they have worked for the County, are eligible for COVID-19 Sick Leave.

**Q: How much leave COVID-19 Sick Leave can eligible employees take?**

A: Eligible regular position (full-time) employees can take up to 80 hours of COVID-19 Sick Leave. Part-time and County temporary employees can take up to 60 hours of COVID-19 Sick Leave for a qualifying COVID-19 related reason.

**Q: What are the qualifying reasons for leave?**

A: Qualifying reasons for COVID-19 Sick Leave include:

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 due to concerns 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 who is subject to either number 1 or 2 above.
5. The employee is caring for his or her son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the secretary of health and human services in consultation with the secretary of the treasury and the secretary of labor.

**Q: When is an employee eligible for COVID-19 Sick Leave to self-quarantine?**

A: Employees are eligible for COVID-19 Sick Leave if a health care provider directs or advises them to stay home or otherwise quarantine themselves because their health care provider believes that they may have COVID-19 or are particularly vulnerable to

COVID-19, and quarantining based upon that advice prevents them from working (or teleworking).

**Q: When an employee becomes ill with COVID-19 symptoms, decides to self-quarantine for two weeks, and then returns to work, but does not seek a medical diagnosis or the advice of a health care provider, can the employee use COVID-19 Sick Leave for those two weeks?**

A: Generally, no. Employees who become ill with COVID-19 symptoms, may take COVID-19 Sick Leave only to seek a medical diagnosis or if a health care provider otherwise advises them to self-quarantine. Employees who test positive for the virus associated with COVID-19 or are advised by a health care provider to self-quarantine, may continue to take COVID-19 Sick Leave. They may not take COVID-19 Sick Leave if they unilaterally decide to self-quarantine for an illness without medical advice, even if they have COVID-19 symptoms. Employees may also not take COVID-19 Sick Leave if they become ill with an illness not related to COVID-19. Employees, however, may be able to telework during their period of quarantine.

**Q: May an employee use COVID-19 Sick Leave to cover the first 10 days of COVID-19 FMLA leave?**

A: Yes, provided the employee qualifies for COVID-19 FMLA leave and has available COVID-19 Sick Leave to use. The COVID-19 Sick Leave must be used concurrently with COVID-19 FMLA leave, if the employee is eligible to take COVID-19 FMLA leave.

**Q: How does COVID-19 Sick Leave interact with the County's existing paid leave policies?**

A: COVID-19 Sick Leave is in addition to time available under the County's paid sick leave policy.

**Q: Can Harris County require an employee to use other paid time off before using COVID-19 Sick Leave?**

A: No, an employee may use COVID-19 Sick Leave for any of the qualifying events listed above. An employee may also choose to use other available paid leave before taking COVID-19 Sick Leave.

**Q: What kind of notice must an employee provide if they want to take COVID-19 Sick leave?**

A: The new law allows Harris County to require that an employee, after the first day an employee receives COVID-19 Sick leave, follow reasonable notice procedures to continue receiving COVID-19 Sick leave.

**Q: Can an employee carryover COVID-19 Sick Leave?**

A: No, an employee may not carryover any COVID-19 Sick Leave after December 31, 2020.

**Q: Can COVID-19 Sick Leave be taken on an intermittent basis?**

A: Yes and No. Employees who use COVID-19 Sick Leave for a reason other than school closure or childcare disruption may use COVID-19 Sick Leave on an intermittent basis. If an employee uses COVID-19 Sick Leave for school closure or childcare disruption, it must be taken in full day increments. The law anticipates that a parent will know when they need leave under this provision. If the need for COVID-19 Sick Leave is foreseeable, an employee must provide notice as soon as practicable.