

COVID-19 Related Employment Policies

Emergency Family and Medical Leave Expansion Act (E-FMLA)

The federal government enacted the Families First Coronavirus Response Act to support employees with additional family and sick leave rights. In addition to the Family Care and Medical Leave (FMLA), California Montessori Project (CMP) will provide Emergency Family and Medical Leave related to COVID-19. This policy will stand until it is no longer required by Federal law.

An eligible employee will be allowed up to 12 weeks of leave to care for their child, who is under the age of 18, because of a COVID-19 related school or child care closure.

An “Eligible Employee” is one who has been employed by CMP for at least 30 calendar days and is unable to work (or telework) due to a need to care for a child if the child’s school or place of care has been closed due to a public health emergency.

A “Rehired Employee” is considered to have been employed by CMP for at least thirty calendar days, and if CMP has had the employee on payroll for the thirty calendar days immediately prior to when the employee’s leave would begin; or, the employee was laid off or otherwise terminated by the employer on or after March 1, 2020, and rehired or otherwise reemployed by the employer on or before December 31, 2020, provided that the employee had been on the employer’s payroll for thirty or more of the sixty calendar days prior to the date the employee was laid off or otherwise terminated.

An employee who has been employed by CMP for a least thirty calendar days is eligible for E-FMLA regardless of whether the employee would otherwise be eligible for leave under FMLA.

For the first 10 days for which an employee takes E-FMLA leave, it will be unpaid unless the employee elects to substitute any accrued vacation leave, personal leave, or sick leave for unpaid leave.

After the first 10 days of leave, the leave shall be paid by CMP in accordance with the following calculations:

- No less than two-thirds of an employee’s regular rate of pay as determined under 29 U.S.C. § 207(e); and
- The number of hours the employee would otherwise be normally scheduled to work

If the employee’s schedule varies from week to week to such an extent that CMP is unable to determine with certainty the number of hours the employee would have worked if the employee had not taken leave, CMP must use the following in place of such number:

- A number equal to the average number of hours that the employee was scheduled per day over the 6-month period ending on the date the employee takes leave, including hours for which the employee took leave of any type; or,
- If the employee has not been employed for six months, the average number of hours the employee and CMP agreed at the time of hiring that the employee would work each workday

- If there is no such agreement, the scheduled number of hours is equal to the average number of hours per workday that the employee was scheduled to work over the entire period of employment, including hours for which the employee took leave of any time

If an eligible employee elects or is required to use leave available to the employee under CMP's policies, such as vacation or personal leave or paid time off, concurrently with E-FMLA, CMP must pay the employee a full day's pay for that day. However, CMP is not required to pay more than \$200 per day and \$10,000 in total for each employee for paid E-FMLA leave.

The first two weeks of E-FMLA may be unpaid, and CMP may substitute Paid Sick Leave at two-thirds the employee's regular rate of pay or accrued paid leave provided by CMP during the first two weeks.

After the first two weeks of leave, E-FMLA is paid at two-thirds the employee's regular rate of pay, up to \$200 per day per employee. Because this period of E-FMLA is not unpaid, the FMLA provision for substitution of the employee's accrued paid leave is inapplicable, and neither the employee nor CMP, as the employer, may require the substitution of paid leave. However, employers and employees may agree to have paid leave as a supplement of pay under E-FMLA so that the employee receives the full amount of his or her normal pay. For example, the employee and CMP may agree to supplement the E-FMLA by substituting one-third hour of accrued vacation leave for each hour of E-FMLA.

In any case where the need for E-FMLA leave is foreseeable, an employee must provide CMP with such notice of leave as soon as possible.

An employee who takes E-FMLA leave is entitled, on return from such leave, to be restored to the position held by the employee when the leave commenced, or they are to be restored to an equivalent position with equivalent employment benefits, pay and other terms and conditions of employment.

If an FMLA (not E-FMLA) eligible employee has already taken a portion of FMLA leave for FMLA leave reasons during the twelve-month period, the eligible employee may take up to the remaining portion of the twelve workweek leave for E-FMLA. If an FMLA eligible employee has already taken the full twelve workweeks of FMLA leave during the twelve-month period, the FMLA eligible employee may not take E-FMLA.

Emergency Paid Sick Leave ("E-Sick Leave")

In addition to CMP's Sick Leave policy identified in the Employee Handbook, CMP will provide to each employee who is unable to work (or telework) due to a need for leave because of any of the following:

- The employee is subject to a Federal, State or local quarantine or isolation order related to COVID-19;
- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis based on symptoms of fever, dry cough, shortness of breath, or any other COVID-19 symptoms identified by the U.S. Centers for Disease Control and Prevention. This sick

leave is limited to time the employee is unable to work because the employee is taking steps to obtain a medical diagnosis, such as waiting for or attending an appointment for a test for COVID-19.

- The employee is caring for an individual who is subject to an order as previously described, such as an employee's immediate family member or a person who regularly resides in the employee's home;
- The employee is caring for their child if the school or daycare has been closed, or the child care provider is unavailable, due to COVID-19 precautions. In this situation, sick leave is only available if no other suitable person is available to care for the employee's child during the period of leave;
- The employee is experiencing any similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

All employees, regardless of how long the employee has been employed by CMP, are eligible for E-Sick Leave.

For full-time employees, CMP will grant the employee 80 hours of paid E-Sick Leave. Full-time employees are those that are normally scheduled to work at least 40 hours each workweek. For part-time employees, the number of hours allowed is equal to the number of hours the employee works, on average, over a 2-week period.

If the employee's schedule varies from week to week to such an extent that CMP is unable to determine with certainty the number of hours the employee would have worked if the employee had not taken E-Sick Leave, CMP will use the following in place of such number:

- If the part time employee has been employed for at least six months, the employee is entitled to up to the number of hours of paid sick leave equal to fourteen times the average number of hours that the employee was scheduled to work each calendar day over the six-month period ending on the date on which the employee takes paid sick leave, including any hours for which the employee took leave of any type.
- For employees employed fewer than six months, the employee is entitled to up to the number of hours of paid sick leave equal to fourteen times the number of hours the employee and CMP agreed to at the time of hiring the employee, on average, each calendar day. If there is no such agreement, the employee is entitled to up to the number of hours of paid sick leave equal to fourteen times the average number of hours per calendar day the employee was scheduled to work over the entire period of employment, including hours for which the employee took leave of any type.

Unused paid E-Sick Leave does not carry over from one year to the next and is not paid out on termination. Once an employee who received paid E-Sick Leave returns to work, CMP will not provide the employee any further paid E-Sick Leave.

CMP may not require, as a condition of providing paid E-Sick Leave, that the employee involved search for a substitute for their position while they are on E-Sick Leave.

Paid E-Sick Leave is calculated based on the employee's required compensation and the number of hours the employee would otherwise be normally scheduled to work, except CMP is not required

to pay more than \$511 per day and \$5,110 in total when an employee uses E-Sick Leave for the employee's own COVID-19 related needs, and \$200 per day and \$2,000 total when an employee uses E-Sick Leave for caring for another person's COVID-19 related needs, or the employee is experiencing any other substantially similar condition as specified above.

Intermittent Leave under E-FMLA or Paid Sick Leave

Subject to the conditions and applicable limits, an employee may take E-FMLA or Paid Sick Leave intermittently only if CMP and the employee agree in writing and only if the employee's child, whose school or place of care is closed, or the child care provider is unavailable, because of reasons related to COVID-19. Under such circumstances, intermittent leave may be taken in any increment of time agreed upon.

An employee may not take Paid Sick Leave intermittently if the leave is taken for the following reasons:

- The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis from a health care provider;
- The employee is caring for an individual who is subject to the above;
- The employee has a substantially similar condition as specified by the Secretary of Health and Human Services.

If CMP authorizes an employee to telework the employee may take Paid Sick Leave for any qualifying reason intermittently as described above. For more information on telework, please see the Teleworking Agreement in the Personnel Handbook.

If an employee takes Paid Sick Leave or E-FMLA intermittently as agreed upon, only the amount of leave actually taken may be counted toward the employee's leave entitlements. For example, an employee who normally works forty hours in a workweek only takes three hours of leave each work day has only taken fifteen hours of the employee's Paid Sick Leave or 37.5% of a workweek of the employee's E-FMLA.