

ADMINISTRATIVE REGULATION

No. 334

Board of Trustees Douglas County School District

PERSONNEL

FMLA LEAVE EXPANSION AND EMERGENCY PAID SICK LEAVE (COVID-19)

To comply with the Families First Coronavirus Response Act and to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. This procedure will be in effect from April 1, 2020, until December 31, 2020. The District's existing FMLA leave procedure still applies to all other reasons for FMLA leave outside of this procedure.

Expanded FMLA Leave

All employees who have been employed with Douglas County School District (DCSD) for at least 30 days may be eligible for this leave.

Reason for Leave

Eligible employees who are unable to work (or telework) due to a need to care for their child when the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19.

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

1. under 18 years of age; or
2. 18 years of age or older and incapable of self-care because of a mental or physical disability.

"Childcare provider" means a provider who receives compensation for providing childcare services on a regular basis, including:

- a. a center-based childcare provider
- b. a group home childcare provider
- c. a family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
- d. other licensed provider of childcare services for compensation

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- e. a childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent.

"School" means an elementary or secondary school.

Duration of Leave

Employees may be eligible for up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this procedure.

Pay During Leave

Leave will be unpaid for the first 10 days of leave; however, employees may use any accrued paid vacation, sick or personal leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as further explained below. After the first 10 days, leave will be paid up to two-thirds of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work provided the two-thirds daily rate does not exceed \$200. Pay will not exceed \$200 per day, and \$10,000 in total. If the \$10,000 max is reached, you will revert to a leave without pay status or you will need to supplement with any existing sick or vacation accruals for the remainder of your leave. Any unused portion of this pay will not carry over to the next year and does not entitle the employee to leave in excess of 12 weeks.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

1. The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. or,
2. If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

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Employee Status and Benefits During Leave

While an employee is on leave, the company will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must continue to make this payment per care of Human Resources.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

Procedure for Requesting Leave

All employees requesting FMLA leave must provide written notice, where possible, of the need for leave to Human Resources as soon practicable. **Employees should submit Expanded FMLA leave and Emergency Paid Sick Leave requests from day one (as opposed to the five-day rule for all other leaves that fall outside of this procedure).** Within five business days after the employee has provided this notice, Human Resources will complete and provide the employee with any Department of Labor (DOL) required notices.

1. Employees should complete and submit the form, as soon as practicable.
2. The employee should include a brief statement as to the reason for leave, and if possible, the expected duration as outlined in the form.
3. Upon receipt of the form, the Benefits and Risk Management Coordinator evaluates whether the reason for the leave meets the above criteria and forwards to the Executive Director of Human Resources for final approval.

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4. The Executive Director of Human Resources will approve accordingly and will forward to the Benefits and Risk Management Coordinator for logging and distribution. An approved copy of the request will be distributed to the employee, Human Resources and Payroll.
5. On a basis that does not discriminate against employees on FMLA leave, DCSD may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

Employee Status After Leave

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. Please contact Human Resources with any questions.

Emergency Paid Sick Leave Eligibility

All full- and part-time employees unable to work (or telework) due to one of the following reasons for leave:

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 child if the school or place of care of the child has been closed, or the childcare provider of such child 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.

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- a. under 18 years of age; or
- b. 18 years of age or older and incapable of self-care because of a mental or physical disability.

Amount of Paid Sick Leave

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. Eligible part-time employees are entitled to the number of hours regularly scheduled to work over a two-week period.

Rate of Pay

Paid emergency sick leave will be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 will be compensated at two-thirds their regular rate of pay, or minimum wage, whichever is greater. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-3 above;
- \$200 per day and \$2,000 in total for leave taken for reasons 4-6 above.

Interaction with Other Paid Leave

The employee may use emergency paid sick leave under this procedure before using any other accrued paid time off for the qualifying reasons stated above.

Employees on expanded FMLA leave under this procedure may use emergency paid sick leave during the first 10 days of normally unpaid FMLA leave.

Procedure for Requesting Emergency Paid Sick Leave

Employees must notify their manager and Human Resources of the need and specific reason for leave under this procedure. Employees should submit Expanded FMLA leave and Emergency Paid Sick Leave requests from day one (as opposed to the five-day rule for all other leaves that fall outside of this procedure).

1. Employees should complete and submit the form, as soon as practicable.
2. The employee should include a brief statement as to the reason for leave, and if possible, the expected duration as outlined in Form.

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3. Upon receipt of a Form, the HR Tech evaluates whether the reason for the leave meets the above criteria and forwards to HR Manager for final approval.
4. HR Manager will approve accordingly and will forward to HR Tech or HR Secretary for logging and distribution. An approved copy of the request will be distributed to the employee, Risk Management and Payroll. The HR Tech will also input the information into Business Plus.

Carryover

Paid emergency sick leave under this procedure will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

Job Protections

No employee who appropriately utilizes emergency paid sick leave under this procedure will be discharged, disciplined or discriminated against for work time missed due to this leave.

Please contact Human Resources with any questions.

[Go to – Personnel: Referenced Forms and Documents to access the FMLA Leave Expansion and Emergency Paid Sick Leave Form](#)

Adopted: 04-20