



CIVIL SERVICE COMMISSION RULE - COVID-19

Effective 5/14/2020
Amended 6/01/2020

Section 1: Introduction

Douglas County continues to take proactive steps to protect the workplace due to the COVID-19 pandemic. It is the County's goal to operate effectively ensuring all essential services are continuously provided and all employees are safe within the workplace or alternative locations.

This rule complies with the federal Families First Coronavirus Response Act (FFCRA) to assist employees affected by the COVID-19 outbreak with job-protected leave and provide emergency paid sick leave. This Civil Service (CS) Rule for COVID-19 will be in effect from April 1, 2020, until December 31, 2020.

Employees are required to report to their supervisor immediately if they have tested positive for COVID-19. They are not to report to work and are to quarantine at home or in a healthcare facility for 14 consecutive days from the onset of symptoms or the test date per the Governor's Directed Health Measure.

Due to the unique nature of the COVID-19 pandemic, the Civil Service Commission Chair and Human Resources Director will jointly publish additional specific guidance regarding the application of this Rule necessary to meet the current public health guidelines and applicable laws.

This Rule supersedes and replaces the Infectious Disease Outbreak Rule and the Civil Service Personnel Rule Addendum (Expanded FMLA and Emergency Paid Sick Leave).

Section 2: Definitions

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 a) under 18 years of age, or b) 18 years of age or older who has a mental or physical disability and is incapable of self-care because of that 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, or 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 resident), niece, or nephew of such provider, at the direction of the parent.

Eligible Employee means an employee who has been employed for at least 30 calendar days by the employer.

Emergency Paid Sick Leave (EPSL) means paid sick leave under the Emergency Paid Sick Leave Act.



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Emergency Responder means an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, emergency medical technicians, paramedics, emergency management personnel, 911 personnel, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency.

Expanded Family and Medical Leave (EFMLA) means paid leave under the Emergency Family and Medical Leave Expansion Act.

Healthcare Provider means anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical test, pharmacy, or similar institution, employer or entity. This includes any permanent or temporary institution, facility, location or site where medical services are provided that are similar to such institutions.

Health Care Provider term as used to determine individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for *EPSL*, means a licensed doctor of medicine, nurse practitioner, or other health care provided permitted to issue a certification for purposes of the FMLA.

Public Health Emergency means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

Rate of Pay means the average of your regular rate over a period of up to six (6) months prior to the date on which you take leave. If there is not six (6) months of pay, the regular rate will be calculated using the rate of pay for each week you worked.

School means an elementary or secondary school.

Section 3: Expanded FMLA Leave (COVID-19)

Employee Eligibility:

All employees, excluding healthcare providers and emergency responders, who have been employed with Douglas County for at least 30 calendar days.

Qualifying Reasons for Leave

Eligible employees who are 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 childcare provider of child is unavailable due to a public health emergency may request EFMLA.



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Duration of Leave

Eligible employees have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated in the FFCRA. This time is included 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 EFMLA to care for a child under this Rule and the FFCRA.

Pay During Leave

EFMLA is unpaid for the first 10 workdays. However, employees may elect to use the paid sick leave provided under the *EPSL* as explained below or they may elect accrued vacation, sick or comptime during this 10-day period and use their *EPSL* for a later need.

After the first 10 days, leave will be paid at two-thirds (2/3) of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day and \$10,000 in total.

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

- The average number of hours 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
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

Employee Status and Benefits During Leave

While an employee is on leave, the County will continue the employee's health benefits during the leave period at the same coverage tier and under the same conditions as if the employee had continued to work. The County will continue to make routine payroll deductions including, but not limited to, the employee's share of the premium. During any unpaid portions of leave, the employee must continue to make this payment per instructions from the Human Resources (HR) Department.

If the employee contributes to voluntary life insurance or other voluntary benefits, the County 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/her premiums. If the employee does not continue these payments, the County may discontinue coverage during the leave. If the County maintains coverage, the County 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 EFMLA leave must complete the EFMLA form, where possible, of the need for leave and email or fax forms to HR as soon as practicable.



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Additionally, employees must also notify their supervisor as soon as possible. Verbal notice will be accepted until written notice can be provided. FMLA forms are available on the HR website under the Forms tab. Within five (5) business days after the employee has provided this notice, HR will complete and provide to the employee any Department of Labor (DOL) required notices.

On a basis that does not discriminate against employees on FMLA leave, the County 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

The County will make reasonable efforts to restore the employee to a position equivalent to the position the employee held when the leave commenced, with equivalent employment benefits, pay, and other terms and conditions of employment. If reasonable efforts fail, the County will contact the employee if an equivalent position becomes available for one (1) year beginning on the earlier of a) the date on which the qualifying need related to a public health emergency concludes or b) the date that is 12 weeks after the date on which the employee's leave commences.

Carryover

Unused Expanded FMLA will not carryover to the next year or be reimbursed as unused leave upon resignation, retirement, termination or other separation from employment.

Section 4: Emergency Paid Sick Leave

Eligibility

All full- and part-time employees, excluding healthcare providers and emergency responders, unable to work (or telework) are eligible.

Qualifying Reasons for Leave

Eligible employees may use *EPSL* for the following reasons:

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 healthcare 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 numbers 1 or 2 above.
5. The employee is caring for his/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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Healthcare providers and emergency responders may use *EPSL* for reasons 1 and 3 stated above.

Amount of Paid Sick Leave

All eligible full-time employees will have up to 80 hours of *EPSL* available to use for the qualifying reasons above. Eligible part-time employees are entitled to the number of hours worked, on average, over a two-week period.

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

- The average number of hours 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
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

Employees may use *EPSL* in increments equal to their regularly scheduled shift. For example, if an employee works 3 hours on Monday and 6 hours on Tuesday, then the employee would use *EPSL* for 3 hours on Monday and 6 hours on Tuesday. It cannot be taken in smaller increments as other paid leaves.

If employees no longer have a qualifying reason for *EPSL* before it is exhausted, they may take any remaining *EPSL* at a later time until December 31, 2020, if another qualifying reason occurs.

Rate of Pay

EPSL 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 subject to applicable caps (see below).

Employees taking leave for reasons 4-6 will be compensated at two-thirds (2/3) their regular rate of pay, or minimum wage, whichever is greater.

However, 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 *EPSL* before using any other accrued paid leave for the qualifying reasons stated above. The employee may also elect to use accrued paid leave (e.g. sick, vacation, comptime) to make up the difference between the *EPSL* benefit and the employee's full rate of pay for Qualifying Reasons 1 through 3, as stated above.

Employees on EFMLA leave may use *EPSL* during the first 10 days of the unpaid EFMLA leave.



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Procedure for Requesting EPSL

Employees must complete the *EPSL* form and email or fax the form to HR. They must also notify their supervisor. The form is available on the HR website. Verbal notification will be accepted until practicable to provide written notice.

Once *EPSL* begins, the employee and his/her supervisor must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive *EPSL*.

Carryover

EPSL will not be provided beyond December 31, 2020. Any unused *EPSL* will not carryover to the next year or be paid upon resignation, retirement, termination, or other separation of employment.

Job Protections

Employees who appropriately utilize *EPSL* will not be discharged, disciplined or discriminated against due to its use.

Section 5: Other Provisions

Telecommuting

Telework requests will be processed on a case-by-case basis. While not all positions are eligible, all requests for temporary telecommuting must be submitted to your supervisor for consideration. Department Heads can require employees to telework. If employees approved for telework are quarantined/isolated and well enough to work, they will be required to continue to telework unless using EFMLA or *EPSL*.

Masking

The County will provide one personal facemask for each employee to wear while at work or for personal use. Employees, who are not healthcare providers, are able to wear their own facemasks as long as they comply with CDC guidance. **Facemasks must be worn any time social distancing of 6 feet is not possible.** This includes **any public area** (e.g. elevators, restrooms, hallways, office space, and meetings). Healthcare providers and emergency responders will be provided facemasks as part of their personal protective equipment (PPE).

The County has adopted the CDC guidance regarding facemasks. Facemasks must cover the mouth and nose fully and fit snugly against the sides of the face without gaps. Employees should avoid touching their face as much as possible thereby keeping the covering clean. Clean hands with soap and water or hand sanitizer immediately before putting on, after adjusting, and after removing the cloth facemask. Employees are not to share their facemask with anyone else, and no one should be touching/handling another employee's facemask. Cloth facemasks should be washed regularly (e.g. daily and whenever soiled) using water and a mild detergent, dried completely in a hot dryer, and stored in a clean container or bag.



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Any employee seeking an accommodation for not wearing a facemask due to a disability or religious reason must contact HR, so an interactive discussion may be scheduled.

Screening

Employee screening (e.g. questionnaires, temperature monitoring) may be established by department to limit possible exposure. Employees are expected to cooperate and provide truthful responses. HR will provide to Department Heads an employee questionnaire form. If the questionnaire is modified, the Civil Service Commission recommends HR review the changes prior to use ensuring compliance with applicable state and federal laws.

Screening must be conducted in an area providing privacy and any documentation shall be maintained confidentially apart from the employees personnel file.

COVID-19 Administrative Leave

Covid-19 Administrative Leave (CAL) is in addition to *Emergency Paid Sick Leave (EPSL)* as outlined above. CAL can be used for only three reasons:

1. Employees who test positive for COVID-19 are eligible to receive up to 15 consecutive workdays of CAL not to exceed three calendar weeks. The number of CAL days depends upon the employee's work schedule and recovery as defined by CDC guidance. Additionally, HR will issue traditional Family and Medical Leave documents to the employee testing positive. Employees who experience complications beyond 15 consecutive workdays (maximum three weeks) and have exhausted all available accrued leave may request Declared Disaster Donated Leave per the Civil Service Rules. CAL is available after *EPSL* has been exhausted.
2. Employees exposed to a COVID-19 positive individual may be directed to quarantine by their Department Head for up to 10 consecutive workdays, not to exceed two calendar weeks. While quarantined, they will receive CAL unless they qualify for *EPSL*. Once they qualify for *EPSL*, it would need to be exhausted before CAL would start and/or continue.
3. Employees who travel within the United States to a CDC hotspot or city, county, or state that has a stay at home or shelter in place order may be required to quarantine for 14 consecutive calendar days at the discretion of their Department Head. Employees are entitled to a maximum of 10 consecutive workdays, not to exceed two calendar weeks.

Department Heads may request medical certification of need to use CAL including, but not limited to, the anticipated duration and/or release to return to work.



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Travel

All business-related, nonessential travel out-of-the State or to a known CDC hotspot within the State should be avoided until further notice. Employees who travel as an essential part of their job should consult with their supervisor on appropriate actions.

Employees are to inform their supervisor prior to any personal travel. If international travel is undertaken, employees shall be quarantined for a 14 consecutive day period in accordance with the Governor's Directed Health Measure. During this 14 consecutive calendar day quarantine, employees may use accrued sick, vacation, and/or comptime or go unpaid if accrued leaves are exhausted. If the employee is well enough to work, the Department Head can require the employee to telework, but the employee will not be eligible to request telework. CAL is not available for international travel-related quarantines.

Personal travel to a known CDC hotspot or to a city, county, or state with a stay at home or shelter in place order within the United States may be followed by a 14 consecutive calendar day quarantine at the Department Head's discretion. Employees subject to this quarantine shall receive CAL.

Healthcare providers and emergency responders returning from any personal travel will be required to wear a facemask for 14 consecutive calendar days.

Section 6: Medical Information and/or Documentation

In compliance with the FFCRA, the County may request employees provide documentation from their healthcare provider regarding COVID-19. This is not a violation of the Health Insurance Portability and Accountability Act (HIPAA). This documentation will assist in determining the level of contagion and ability to return to work.

Additionally, documentation may be needed by HR to determine school, care center and/or in-home childcare closures for EFMLA.

All COVID-19 documentation will be kept confidential and will not be placed in an employee's personnel file.

Please contact the Human Department with questions regarding EFMLA, *EPSL*, CAL or this Rule.