



February 10, 2021

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CAROLYN EMERY
EXECUTIVE OFFICER

TO: Local Agency Formation Commission

FROM: Executive Officer
Legal Counsel

SUBJECT: OC LAFCO Emergency Paid Sick Leave Policy
(Coronavirus)

BACKGROUND

To comply with the Families First Coronavirus Response Act (FFCRA), on May 13, 2020, the Commission adopted the FMLA Leave Expansion and Emergency Paid Sick Leave Policy. In addition to complying with federal law, the temporary policy was established to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. Both the FFCRA and the Commission's local policy expired on December 31, 2020.

At the OC LAFCO January 13 meeting, staff was directed to bring back a proposed policy for extending emergency paid leave to employees affected by the continued outbreak. The staff report provides key highlights of the newly proposed policy, and if approved, would allow for immediate implementation and compliance with any federal, state or local laws subsequently passed.

OC LAFCO Extended Emergency Paid Sick Leave Policy (Coronavirus)

The proposed Extended Emergency Paid Sick Leave (E-EPSSL) Policy is intended to provide paid leave to employees unable to work (or telework) due to a workplace COVID-19 exposure. If approved by the Commission, the policy would generally provide the following:

- Up to 80 hours of E-EPSSL to full-time OC LAFCO employees if they are required to quarantine or isolate as a result of workplace COVID-19 exposure.
- E-EPSSL hours based on a two-week average of the number of hours hired for or expected to work for OC LAFCO part-time and

extra-help employees if they are required to quarantine or isolate as a result of workplace COVID-19 exposure.

- E-ESPL hours paid at the employee's regular rate of pay unless a different method of calculation of the rate of pay is required by federal, state, or local law.
- Coordination and integration of E-ESPL with any federal, state or local laws.
- Unused E-ESPL will not carry over to the next year, unless the policy is extended to comply with federal, state, and local laws, or be paid out to employees.

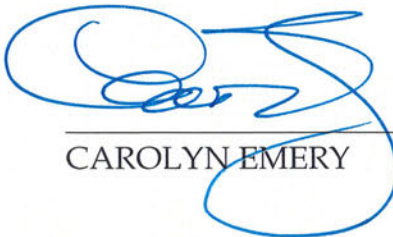
Additionally, the proposed policy includes the procedure employees must follow when requesting E-ESPL and would allow for the suspension, modification or extension of the policy to comply with laws subsequently passed for COVID-19 leaves. The duration of the proposed policy is February 1, 2021 through December 31, 2021 and, if approved, would not change other agency applicable leave policies.

RECOMMENDATION

Staff recommends that the Commission:

1. Approve the OC LAFCO Extended Emergency Paid Sick Leave Policy (Coronavirus) - Attachment A.

Respectfully submitted,



CAROLYN EMERY



SCOTT C. SMITH

Attachment A: OC LAFCO Extended Emergency Paid Sick Leave Policy (Coronavirus)



Extended Emergency Paid Sick Leave Policy (Coronavirus)

Purpose

The purpose of this temporary policy is to provide employees with paid leave if they are required to quarantine or isolate as a result of a workplace COVID-19 exposure. This policy will be in effect from February 1, 2021 until December 31, 2021, unless it is suspended earlier, or modified or extended to comply with federal, state or local laws or based on the needs of the agency, at the discretion of the Executive Officer. The Families First Coronavirus Response Act (FFCRA) which created a new leave entitlement and the Commission's local policy expired on December 31, 2020, and left employees without designated leave for these purposes. All other agency applicable leave policies still apply.

Extended Emergency Paid Sick Leave

Extended Emergency Paid Sick Leave (E-EPSL), as described below, will be available for use beginning on February 1, 2021.

Eligibility

All full-time, part-time and extra-help employees unable to work (or telework) due to a workplace exposure to COVID-19. Generally, employees would be unable to work because they are subject to an isolation or quarantine order due to COVID-19, unless they are able to telework.

An employee is not eligible for and may not take E-EPSL when there is no work for the employee, when the employer can establish that the exposure was not work related or when the employee is not able and available to work. An employee who is receiving workers' compensation temporary total disability (TTD) benefits may use E-EPSL to supplement their TTD up to their full wages.

Amount of E-EPSL

All eligible full-time employees will have up to 80 hours of E-EPSL available to use for the qualifying reasons above. Eligible part-time and extra-help employees will have the number of hours they were hired for or expected to work, on average, over a two-week period, of E-EPSL available to use for the qualifying reasons above. If any federal, state or local law subsequently passed requires a different method of calculation of leave, OC LAFCO will comply with those requirements. OC LAFCO will also comply with all applicable Cal-OSHA COVID-19 Regulations (Emergency Temporary Standards or ETS), and will continue pay and benefits if required under those standards.

Rate of Pay

E-EPSL will be paid at the employee's regular rate of pay. If any federal, state or local law subsequently passed requires a different method of calculation of the rate of pay, OC LAFCO will comply with those requirements.

**Interaction with Other Paid Leave**

The employee may use E-EPSSL under this policy before using any other accrued paid time off provided by OC LAFCO for the qualifying reasons stated within this policy. OC LAFCO will coordinate and integrate this leave with any federal, state or local laws passed for the same uses, and may require that those federal, state and local leaves run concurrently with E-EPSSL or that those leaves are used before E-EPSSL. Based on the passage of any other paid leave laws for COVID-19 leaves, the Executive Officer may suspend or extend this policy and the entitlement of employees to use E-EPSSL.

Procedure for Requesting E-EPSSL

Employees must notify their supervisor or the Executive Officer of the need and specific reason for leave under this policy. A form will be provided to all employees for documenting the leave request. Verbal notification will be accepted until practicable to provide written notice. OC LAFCO will make a determination whether it can establish that the exposure was not work related, and if that can be established, employees will not be entitled to E-EPSSL.

Once E-EPSSL has begun, the employee and his or her supervisor/Executive Officer must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive E-EPSSL. Employees may be requested to provide medical certification or a medical note supporting the need for leave under appropriate circumstances, but will not be required when not practicable to obtain.

Carryover

E-EPSSL under this policy will not be provided beyond December 31, 2021, unless the policy is extended to comply with federal, state and local laws or based on the needs of the agency, at the discretion of the Executive Officer. Any unused E-EPSSL will not carry over to the next year, unless this policy is extended to comply with federal, state and local laws, or be paid out to employees.

Job Protections

No employee who appropriately utilizes E-EPSSL under this policy will be discharged, disciplined, or discriminated against for use of leave under the policy or any request to use leave under this policy.

Please contact the Executive Officer/supervisor at (714) 640-5100 with any questions.