



## County Risk Sharing Authority

a service program of the County Commissioners Association of Ohio

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March 30, 2020

### RISK CONTROL SERVICE BULLETIN

#### *Temporary Families First Coronavirus Response Act (FFCRA) Emergency Paid Sick Leave Policy; Temporary FMLA Policy; & Sample Teleworking Policy*

The Family First Coronavirus Response Act (FFCRA) goes into effect on April 1, 2020. To assist appointing authorities with the administration of emergency paid sick leave and the FMLA as expanded by the FFCRA, CORSA prepared the enclosed Temporary FFCRA Emergency Paid Sick Leave and Temporary FMLA policies. The attached policies comply with US Department of Labor (DOL) guidance as of March 30, 2020. The DOL is yet to issue regulations as required by the FFCRA. We will modify and reissue these policies as required by DOL regulations, if necessary. Regardless, we advise that you consult the DOL's website frequently to monitor developments regarding the FFCRA. <https://www.dol.gov/coronavirus>

The enclosed policies were created in the same manner as those contained in CORSA Best Practice Personnel Policy Manual. That is, the policies provide the essential elements required by public employers to comply with the law. Of course, appointing authorities can provide more expansive policies and benefits, if required, due to specific circumstances. Ultimately, policies adopted and applied must meet the unique needs of appointing authorities as well as comply with the FFCRA. **If an appointing authority chooses to provide more policies and/or expansive benefits, CORSA encourages you to consult with your appropriate legal advisor and/or use the services provided by CORSA prior to such implementation.**

CORSA has also prepared the enclosed sample Telework Policy and Tips for your consideration and use. Again, please tailor sample the Telework Policy to meet the unique needs of appointing authorities on a case-by-case basis. Please remember cybersecurity considerations associated with teleworking. Accordingly, please consult your IT provider(s), CORSA's Remote Work Cyber Security Risk Control Bulletin (3-16-20) and other IT resources before implementing telework.

Please remember that CORSA members can take advantage of risk control policies and services at no cost to members, including the HR Helpline, Best Practice Personnel Policy Manual consultation, and HR Toolkit. CORSA policies and services can be found at: [www.CORSA.org](http://www.CORSA.org). CORSA is here to serve members throughout the pandemic.

This Risk Control Bulletin and attachments are not legal advice nor should they be construed as legal advice. We recommend you consult your Prosecutor or legal advisor should you require a legal opinion. If you have questions regarding this Bulletin or CORSA Risk Management services please contact Frank Hatfield, CORSA Risk Control Manager, at (614) 560-1474 or [fhatfield@ccao.org](mailto:fhatfield@ccao.org). Be safe.

## **I. TEMPORARY EMERGENCY PAID SICK LEAVE POLICY**

All eligible employees shall be entitled to emergency paid sick leave in compliance with the 2020 Families First Coronavirus Response Act as follows:

### **A. Use of Leave.**

All full-time and part-time employees may use emergency paid sick leave if they are unable to work (or telework) before using other accrued paid leave 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 health-care professional to self-quarantine because of COVID-19;
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. The employee has a bona fide need to care for an individual who has been ordered or advised to quarantine or isolate;
5. To care for a child under 18 years old due the unavailability of school or childcare for COVID-19 reasons; or
6. For similar conditions as determined by the Secretary of Health and Human Services.

### **B. Length of Leave and Compensation.**

1. Employees taking leave for reasons 1-3 as set forth above are entitled to two weeks of emergency sick leave at full pay. Part-time employees are entitled to the equivalent of the hours they work on average in a two-week period. This sick leave will not be deducted from an employee's accrued sick leave balance.
2. Employees taking leave for reasons 4-6 as set forth above will receive two-thirds of their regular rate of pay or two-thirds of minimum wage, whichever is greater. Part-time employees are entitled to the equivalent of hours they work on average in a two-week period. For part-time employees who do not work a regular schedule, the two week equivalent will be based on an average number of hours worked in the previous six months.
3. Full-time employees are entitled to eighty (80) hours of pay at their regular rate (up to \$511 per day and \$5,110 in total) for leave taken for reasons 1, 2, and 3 as described above and two-thirds of their regular rate of pay if emergency sick leave is used for reasons 4, 5, and 6 as described above (up to \$200 per day and \$2,000 in total).

4. Employees who exhaust their two weeks of leave under this policy for reasons 1-3 as set forth in section A and are unable to return to work due to that reason may apply for Family Medical Leave pursuant to the County's Family Medical Leave Act provided the employee is otherwise eligible.
5. Employees taking emergency sick leave for reason number 5 in Section A and are unable to return to work after this period due to the unavailability of school or childcare for COVID-19 reasons may apply for FMLA leave provided by the FFCRA as set forth in County policy.
6. Employees are entitled to a total of two weeks of emergency sick leave under this policy regardless of the reason(s) for the leave.

**C. Employee Notification.**

When an employee is unable to report to work due to illness or other acceptable sick leave reason under the FFCRA, they shall notify their supervisor as instructed by the Appointing Authority or Agency Head. An employee must continue such notification each succeeding day of absence except in cases of prolonged illness or absences where the employee has been granted a set period of leave.

Employees taking leave under this policy are expected to engage in conduct consistent with their need for such leave. If circumstances change, employees must notify their supervisor of the new facts so a determination can be made concerning the appropriate leave, if any, that is available to the employee.

**D. Exemptions.**

An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this policy pursuant to the FFCRA. Each appointing authority shall designate those health care providers or emergency responders who are exempt from this policy.

**E. Medical Information.**

The County will maintain employees' medical information in a separate medical file and will treat the information in a confidential manner. Employees who are concerned that their medical information is not being treated in a confidential manner should report such concerns to the [Designee Position Title, Phone Number].

**F. Retaliation.**

An employee will not be retaliated against for exercising her right to emergency sick leave in accordance with this policy.

**G. Expiration.**

This policy is temporary and is in effect from April 1, 2020 until December 31, 2020. Emergency paid sick leave accrued under this policy may not be carried over past December 31, 2020. Any unused emergency sick leave will not be paid out under any circumstances.

**Additional Information: The Department of Labor’s website maintains a continually updated listing of Frequently Asked Questions and other relevant information for employers regarding the Temporary Emergency Paid Sick Leave and Families First Coronavirus Response Act (“FFCRA”). The web address for the Department of Labor’s “Coronavirus Resources” is:**

**<https://www.dol.gov/coronavirus>**

**All members are encouraged to make use of available legal and consulting resources to the extent that specific issues and questions arise in your County.**

## **I. TEMPORARY FAMILY MEDICAL LEAVE ACT (FFCRA) POLICY**

### **A. Statement of Policy.**

Under the Families First Coronavirus Response Act (FFCRA), eligible employees may request up to twelve (12) weeks of emergency family and/or medical leave for qualifying reasons related to COVID-19 with job protection and no loss of accumulated service provided the employee meets the conditions outlined in this policy. This policy is temporary and is in effect between April 1, 2020 and December 31, 2020.

The expanded FMLA leave provided by this policy is not in addition to FMLA leave available for other FMLA qualifying conditions, such as an employee's serious health condition, a serious health condition of an employee's immediate family member (spouse, child or parent), upon the birth, adoption or foster placement of a child or for certain military leave related reasons. The 12-month period applicable for traditional FMLA leave is applicable to the leave requested by employees under this policy.

### **B. Definitions.**

As used in this policy, the following terms and phrases shall be defined as follows:

1. "Qualifying need related to a COVID-19": employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed or the child care provider of such son or daughter is unavailable due to COVID-19.

### **C. Eligibility.**

To be eligible for leave under this policy, an employee must meet all of the following conditions:

1. Worked for the County for at least thirty (30) days.
2. Otherwise be entitled to FMLA leave during the 12 month period defined by the County's FMLA policy.
3. Spouses who are both employed by the County are jointly entitled to a combined leave total of twelve (12) weeks (rather than twelve (12) weeks each) for childcare purposes. Employees who are both employed by the County may not take leave under this policy at the same time.
4. An employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this policy pursuant to the FFCRA. Each appointing authority is responsible for designating health care workers and emergency responders who are exempt from this policy.

**D. Use of Leave.**

Leave under this policy is limited to circumstances where an employee is unable to work (including telework) due to the need to care for the employee's minor child because the child's school or place of childcare has been closed or the child care provider of the child is unavailable due to COVID-19.

Employees taking leave under this policy must be present with the minor children during regular work hours and otherwise act in a manner consistent with the need for such leave.

**E. Procedures for Requesting Emergency Sick Leave**

Requests for FMLA leave must be submitted in writing as soon as practicable prior to the commencement of the leave. The employee must follow the regular reporting procedures for each absence.

**F. Compensation.**

Employees eligible for expanded FMLA pursuant to the FFCRA in order to care for the employee's minor child as outlined in Paragraph D above shall be eligible for to up to twelve (12) weeks of paid emergency sick leave and expanded family and medical leave paid at two-thirds the employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work (with a maximum payment of \$200 per day and \$12,000 total).

**G. Intermittent/Reduced Schedule Leave.**

An employee may take FMLA leave on an intermittent or reduced work schedule basis for a qualifying need related to a COVID-19 with the employer's approval. Requests for intermittent or reduced schedule FMLA leave must be submitted in writing as soon as practicable.

**H. Reinstatement.**

Employees who take leave under this policy will be reinstated to the same or a similar position upon return from leave except that if the position that the employee occupied prior to taking FMLA leave is not available, the employee will be placed in a position which entails substantially equivalent levels of skill, effort, responsibility, and authority and which carries equivalent status, pay, benefits, and other terms and conditions of employment as the position the employee occupied prior to taking FMLA leave. The determination as to whether a position is an "equivalent position" will be made by the Employer.

**I. Retaliation.**

Employee will not be retaliated against for exercising their rights to leave in accordance with this policy.

**J. Expiration.**

This policy is temporary and will be effective April 1, 2020 and expire on December 31, 2020.

**Additional Information: The Department of Labor’s website maintains a continually updated listing of Frequently Asked Questions and other relevant information for employers regarding the Temporary Emergency Paid Sick Leave and Families First Coronavirus Response Act (“FFCRA”). The web address for the Department of Labor’s “Coronavirus Resources” is:**

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**All members are encouraged to make use of available legal and consulting resources to the extent that specific issues and questions arise in your County.**

**Employers should tailor this policy to the needs of their organization and seek legal advice before implementing**

**[EMPLOYER]  
Teleworking Policy**

Effective \_\_\_\_\_

**I. Purpose**

The purpose of this policy is to establish requirements and guidelines for employees engaging in authorized teleworking or telecommuting during the COVID-19 State of Emergency. “Teleworking” or “Telecommuting” is a work flexibility arrangement under which an employee performs their work duties and responsibilities from an approved worksite other than the location from which the employee would otherwise work.

**II. Scope**

This policy applies to all employees specifically authorized by the Employer to perform teleworking or telecommuting. This Policy is effective immediately and until rescinded by the Employer.

**III. Requirements**

**A. Location of Work.** Employees must provide the Employer the physical address and telephone number of the location at which they will be teleworking.

- The workspace must be safe and free from hazards.
- The workspace must be reasonably free from interruptions and distraction that would affect work performance.
- The workspace must allow for the employee to preserve the confidentiality of sensitive or non-public information. Any Employer provided material or equipment shall not be removed from the workspace while the employee is teleworking.
- For employees who must verbally communicate with others as part of their duties, the workspace must be quiet and allow for professional communications during those times.
- Teleworking employees shall not meet with the public or clients in their home office in any official capacity or connected with the Employer’s business. The Employer is not responsible for any injuries to family members, visitors and others in the employee’s home.
- The Employer is not responsible for any loss to the employee’s property whether caused by physical damage, computer virus attacks or other intrusions via the internet.

**Employers should tailor this policy to the needs of their organization and seek legal advice before implementing**

**[EMPLOYER]  
Teleworking Policy**

- Employees utilizing Employer equipment while teleworking must protect the equipment from damage.
- B. Hours of Work.** Non-Exempt Employees are authorized to engage in teleworking during their normally scheduled workdays and hours, or on days/times pre-approved by their supervisor. Non-Exempt Employees may not work outside of those days and hours without prior supervisor approval. Non-Exempt Employees are responsible for accurately reporting their time worked each day.
- C. Reporting for Work.** Employees must communicate with their supervisor via e-mail when beginning the workday, upon leave for and returning from lunch and when they are done with work at the end of the day. Employees who do not work for all or a portion of a day they are expected to telework are responsible for requesting to use appropriate leave. The Employer is not responsible for paying employees while teleworking if they are unable to perform work due to operational or technological issues such as the availability of an adequate internet connection.
- D. Communication.** While teleworking, employees must be reachable by the employer during their normal working hours, and any other times designated by the employer. If the employee becomes aware of or anticipates any disruption in technological communication during their normal working hours, they are to immediately notify their supervisor.
- E. Security and Confidentiality.** While working remotely, employees must take steps to preserve the security and confidentiality of Employer information. Employees must keep confidential documents and materials in secure locations. Employees must maintain password protection to the same extent as required at the workplace, and keep confidential documents and records securely stored. If working on personal devices, employees must have valid up-to-date anti-virus software and appropriate computer and internet security installed and activated. Any suspected hacks or breaches of security must be reported to the Employer immediately.
- F. Policies.** This teleworking arrangement does not change the basic terms and conditions of employment, including rate of pay and benefits. Employees are expected to apply with all Employer policies, procedures and performance standards.

**Employers should tailor this policy to the needs of their organization and seek legal advice before implementing**

**[EMPLOYER]  
Teleworking Policy**

**G.** The Employer retains the right to investigate alleged abuse of this teleworking policy and may cease or modify an employee’s approval for telework at any time.

**Acknowledgment**

I hereby acknowledge receipt of this Policy and agree to abide by its terms during this assignment.

\_\_\_\_\_  
Employee

Date:

**Employer Approval**

Signature:	Date:
Print Name:	Title:

### **Tips for Supervisors managing teleworking employees:**

- Discuss with employees what home office equipment and supplies are necessary to successfully telecommute.
- Prepare an inventory of any company equipment that employees take home to telecommute.
- Check with IT about:
  - a. Remote connectivity to work systems.
  - b. Computer and internet security and virus protection.
  - c. Availability of virtual meeting rooms.
  - d. Ability for IT to connect to at-home work systems to conduct repairs or updates.
- Plan for a secure way to transmit sensitive or confidential materials to telecommuting employees electronically.
- Plan work for employees for multiple days at a time as teleworking employees may not have access to their physical office at work and will need to assure that they have adequate files, materials and supplies.
- Some employees will not be familiar with virtual meeting options (ex. Skype, Go-to-Meeting, Citrix, FaceTime). Prepare step-by-step instructions for those employees and do a “test run” to make sure the equipment is working, and the users are comfortable.
- Collect all phone numbers of teleworking employees and circulate them to your team.
- Be patient with the process. Many employees will be adjusting to a new way of working.
- Schedule a daily call-in to discuss the status of projects, provide updates and answer any questions.
- Plan for proper storage and retention of work-related documents.

### **Tips for Employees while working remotely:**

Teleworking requires the ability to work independently, with minimal direct supervision. There are many benefits to teleworking, but it may also come with some challenges. Follow these tips to successfully telework:

- Plan for a full workday.
- Set a time schedule for each workday.
- Anticipate when you will have conference calls or online meetings, times that you intend to carve-out to work on specific projects without interruption, and your breaks.
- Plan work several days ahead so that you can have adequate materials and supplies each day and communicate to your supervisor if you anticipate needing files or materials from the office.
- Make sure you protect the confidentiality of sensitive materials and communications.
- Find a space to work that is comfortable and quiet and allows you to focus on work during your workday.
- Minimize typical household noise in your workspace, such as television, pets and children.
- Plan for household chores to occur after your workday.
- Be patient with the process.
- Communicate with your supervisor about any challenges.