



Troy M. Hamblin
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MEMORANDUM

TO: All Employees

FROM: Troy M. Hamblin, Director of Human Resources

DATE: March 31, 2020

RE: Families First Coronavirus Response Act and Notice of New District Policies

The pandemic spread of COVID-19 has affected our daily lives profoundly. We are now under declarations of National, State and Local States of Emergency. On Wednesday, March 18, 2020, the Families First Coronavirus Response Act (“FFCRA”) was signed into law. As a result of this new law, the Oak Creek-Franklin Joint School District (“District”) brings to your attention two new workplace policies that are scheduled to take effect on April 1, 2020. The District is adopting these policies in order comply with the recently enacted FFCRA, and in furtherance of our effort to limit the spread of COVID-19 among our employees and the general public while maintaining staffing and essential services. Please find attached the District’s Emergency Family and Medical Leave Expansion Policy and the Emergency Paid Sick Leave Policy required by the FFCRA.

Both policies entitle eligible employees to paid leaves of absence necessitated by COVID-19. Please review the policies carefully, as they contain important information regarding eligibility, rights, and responsibilities for paid and unpaid leave. The rights and responsibilities identified in the policies reflect those that are established under the applicable provisions of the FFCRA. The benefits available under these policies take effect beginning April 1, 2020 and sunset on December 31, 2020. Please note that, unless you are notified of revisions to other District policies, they will remain in full force and effect.

Further guidance on the FFCRA is forthcoming from the appropriate governmental agencies. When that guidance is issued, we may be required to make changes to these policies. We will provide you with those changes. In the meantime, we strongly encourage you to familiarize yourself with the Emergency Paid Sick Leave Policy and the Emergency Family and Medical Leave Expansion Policy.

Please direct all related inquiries to me. I am happy to discuss these policies and how they may affect your unique circumstances.

**EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT POLICY ADDENDUM TO THE OAK
CREEK-FRANKLIN JOINT SCHOOL DISTRICT'S FMLA POLICY**

The Emergency Family and Medical Leave Expansion Act (“EFMLEA”) is an amendment to the federal Family and Medical Leave Act (“FMLA”). The EFMLEA allows employees to use up to 12-weeks of federal FMLA leave during the COVID-19 crisis when the 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 the 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 a public health emergency.

The District has established this EFMLEA Policy Addendum to our FMLA policy to ensure that employees are informed of their rights and responsibilities as they relate to leave provided under the EFMLEA. Leave under the EFMLEA provides one additional reason for leave protected under the FMLA.

A. Eligibility, Duration, and Requests for Leave

Employees who have been employed by the District for at least 30 calendar days may be entitled to leave under this Policy. Eligible employees with a qualifying need related to a public health emergency, as described in Section B below, may be eligible for up to 12 weeks of EFMLEA leave. This 12-week entitlement, however, will be reduced by FMLA leave otherwise taken by an employee under the District’s FMLA Policy. An employee may be able to take EFMLEA intermittently, only upon approval by the Director of Human Resources.

Eligible employees must provide the District with notice of their need for leave under this Policy as soon as reasonably practicable. Notice should be provided in writing, including e-mail to the Director of Human Resources or the Human Resources Specialist. Requests for leave should not be conveyed via voicemail unless circumstances prevent other forms of communication. The failure to provide notice of your need for leave may result in an unauthorized absence from work.

B. Qualifying Need Related to a Public Health Emergency

The EFMLEA entitles an eligible employee to seek leave to when the employee is **unable to work (or telework)** due to a need to care for the son or daughter (under 18 years of age) of the employee, if the child’s school or place of care has been closed, or the child care provider of such son or daughter is unavailable due to a public health emergency.

C. Compensation and Benefits During Leave

Protected leave under this Policy may consist of a combination of both unpaid and paid leave periods. The first 10 workdays for which an employee takes leave under this Policy are unpaid. While not required, employees may elect to substitute any accrued paid leave benefits available to the employee to cover the first 10 workdays of unpaid leave, including but not limited to, any paid sick leave to which the employee is entitled under the Emergency Paid Sick Leave Policy. To substitute paid leave for the otherwise unpaid period, the employee must satisfy all requirements for taking the accrued leave.

Any leave under this Policy taken after 10 workdays is paid as required by law. For each day of leave the employee takes after 10 workdays, the employee will be compensated in an amount equal to two-thirds of the employee's regular rate of pay multiplied by the number of hours the employee would normally be scheduled to work. In no event shall pay while on EFMLEA leave exceed \$200 per day, and \$10,000 in the aggregate.

During an approved leave of absence under this Policy, the District will continue to make available to the employee group health insurance benefits which are available to similar employees who are not on leave. The employee on leave will continue to have responsibility to contribute his or her portion of any employee-paid premium during leave. If the employee is paid during the leave period, then the premium will be deducted from the employee's pay. If the leave is unpaid, then the employee is responsible for arranging with the Director of Human Resources or the Human Resources Specialist the payment of his or her share of the premium during the period of leave.

Upon termination from employment, any remaining premium amounts due from the employee for unpaid coverage will be deducted from the employee's final check, if permitted by law. The failure to make timely premium payments may result in the loss of benefits.

No employee will lose any accrued seniority or benefits while on this protected leave; however, additional seniority and benefits will not accrue during any unpaid period of leave.

D. Verification of Need

For EFMLEA leave under this Policy, a health care provider certification will not be required, however, the employee may need to provide information supporting the need for EFMLEA leave. That information may include information that demonstrates the basis for the need to care for the son or daughter under age 18 that makes the employee unable to work (or telework) in circumstances when the child's school or place of care is closed or the child care provider of such son or daughter is unavailable due to a public health emergency. Among other considerations, the District will assess whether spouses or other family members are available to provide needed care thus eliminating the employee's need for the EFMLEA leave.

Employees who wish to take a medical leave of absence for a serious health condition, for the employee or to provide needed care for an eligible family member, may seek leave under the District's standard FMLA policy. This addendum would not be applicable to such leave. See the District's FMLA Policy for the procedures for requesting FMLA leave under District's FMLA policy including certification requirements for FMLA leave.

E. Returning from EFMLEA Leave

Where possible, employees on EFMLEA leave should provide the District with at least two (2) weeks' written notice of their intent to return to work. However, under no circumstances may an employee provide fewer than two (2) workdays' notice of their intent to return to work, if returning early. Any employee who returns from leave within 12 weeks, or the lesser amount of leave that was available to that employee due to other use of FMLA leave, will be reinstated to the same or an equivalent position with equivalent benefits, pay and other terms and conditions of employment. The District cannot guarantee reinstatement to employees whose leave extends beyond 12 weeks in any 12-month period, except to the extent necessary to comply with applicable state or federal

laws. An employee will not have any greater right to employment than he/she would have if FMLA leave had not been taken.

If due to economic conditions or other changes in the operating conditions of the District, a position no longer exists, the District will make a reasonable offer to restore employee to equivalent employment; or if no such position exists, the District will continue to consider the employee for equivalent employment that may arise for one year following the conclusion of leave.

F. Nondiscrimination and No Retaliation

The District strictly prohibits any form of discrimination or retaliation in the administration of this Policy. The requesting or taking of leave under this Policy will not be used against an employee in any employment decision, including in the determination of raises, employment opportunities, or discipline. Similarly, leave under this Policy will not serve as a negative factor or count against any employee for purposes of meeting the District's attendance requirements.

It is unlawful for the District to interfere with, restrain, or deny the exercise of, or the attempt to exercise, employees' rights established under the FFCRA, the EFMLEA, or this Policy. The District will not retaliate against individuals because of their participation in or commencement of an action, proceeding, or investigation related to leave entitlement under the FFCRA or this Policy or for opposing any practice made unlawful by the FFCRA. An employee may file a complaint with the U.S. Department of Labor or may bring a private lawsuit in such cases.

G. Expiration of Benefit

In accordance with the EFMLEA, benefits pursuant to the EFMLEA and this policy expire on December 31, 2020.

H. Questions

If you have any questions regarding the operation or interpretation of this Policy, please contact the Director of Human Resources or the Human Resources Specialist.

EMERGENCY PAID SICK LEAVE POLICY

The Emergency Paid Sick Leave Act (“EPSLA”) establishes paid sick leave entitlement for eligible employees during an absence for qualifying reasons, as set forth below.

A. Employee Eligibility

Eligible employees may receive emergency paid sick leave benefits, regardless of their length of employment with the District, provided that a qualifying reason for leave exists and is adequately communicated to the District as soon as practical. Paid sick leave under this Policy is available for immediate use for any of the qualifying reasons identified in Section B.

B. Qualifying Reasons for Paid Sick Leave

Employees may use emergency paid sick leave under this Policy if the employee is unable to work (or telework) due to any of 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 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 an order or has been advised by a health care provider to self-quarantine;
5. The employee is caring for a son or daughter of the employee and the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions; and
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Leave available under this Policy may only be used for reasons permitted by this Policy unless otherwise required by law.

C. Requesting Paid Sick Leave

Employees may request leave under this Policy writing, including via email. Requests for leave should not be conveyed via voicemail unless circumstances prevent other forms of communication. Requests for paid sick leave should be directed to the Director of Human Resources or the Human Resources Specialist. An employee seeking such leave should notify the District of the need for leave as soon as practical after the employee becomes aware of the need for paid sick leave but no later than the first workday (or portion of such workday) that the employee receives EPSLA paid sick leave.

The notice to the District and request for leave must identify the need for leave as identified in Section B(i) – (vi) above.

An employee shall request leave on a designated form prepared by the District.

The District may follow up with an employee requesting such leave to obtain additional information and to advise of other benefits available including FMLA and EFMLEA benefits.

D. Duration of Paid Sick Leave

Eligible full-time employees are entitled to 80 hours of emergency paid sick leave under this Policy. Eligible part-time employees are entitled to a number of hours equal to the number of hours that they work, on average, over a two-week period. If an employee's hours of work are variable, the average bi-weekly hours the employee worked over the prior 6 months will be used. On an employee's separation from employment, any unused paid sick leave under this policy is not paid to the employee.

Unless an employee is demonstrably teleworking, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

- 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;
- The employee is caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Unless an employee is teleworking, once an employee begins taking paid sick leave for one or more of these qualifying reasons, the employee must continue to take paid sick leave each day until the employee either (1) uses the full amount of paid sick leave or (2) no longer has a qualifying reason for taking paid sick leave. This limit is imposed because if an employee is sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep an employee from spreading COVID-19 to others.

E. Compensation During Leave

When taking paid sick leave under sections B above, employees are entitled to receive their regular rate of pay as compensation during a period of absence. However, in no event shall such paid sick time pay exceed \$511 per day and \$5,110 in the aggregate.

The eligible employee receives an aggregate maximum of 80 hours total if full-time and prorated downward for part-time employees.

F. Effect on Existing Policies

This Policy is not intended to replace any existing leave or paid time off policies maintained by the District. Paid sick leave provided under this Policy is made available to eligible employees in addition to any leave or paid time off benefits provided under any of the District's existing policies. Eligible employees may first use paid sick leave under this Policy for any of the qualifying reasons identified in Section B above before using other accrued paid leave which may be available to the employee under any of the District's existing policies. The District is prohibited by law from requiring employees to first use other unused and accrued paid time off benefits to which employees may be entitled under other existing policies prior to using emergency paid sick leave under this Policy.

G. Nondiscrimination and No Retaliation

The District strictly prohibits any form of discrimination or retaliation in the administration of this Policy. The requesting or taking of leave under this Policy will not be used against any employee in any employment decision, including in the determination of raises, employment opportunities, or discipline. Similarly, paid sick leave under any section of this Policy will not serve as a negative factor or count against any employee for purposes of meeting the District's attendance requirements.

It is unlawful for the District to interfere with, restrain, or deny the exercise of, or the attempt to exercise, employees' rights established under the EPSLA, or this Policy. The District will not retaliate against individuals because of their participation in or commencement of an action, proceeding, or investigation related to paid sick leave entitlement under the EPSLA, or this Policy or for opposing any practice made unlawful by the EPSLA.

H. Expiration of Benefit

In accordance with the EPSLA, the paid emergency sick leave benefits under the EPSLA and in this Policy expire on December 31, 2020.

I. Questions

If you have any questions regarding the operation or interpretation of this Policy, please contact the Director of Human Resources or the Human Resources Specialist.