

BOARD OF LUCAS COUNTY COMMISSIONERS

EMERGENCY COVID-19 FAMILY AND MEDICAL LEAVE EXPANSION POLICY

Originally approved 4/21/2020; amended on 8/11/2020

I. PURPOSE

The purpose of this policy is to comply with the provisions of the Families First Coronavirus Response Act (FFCRA) regarding Emergency Family and Medical Leave Expansion (expanded FMLA leave) for qualifying reasons associated with COVID-19.

II. POLICY

Under the FFCRA, eligible employees may receive up to twelve (12) weeks of protected expanded FMLA leave in order to care for the employees' son or daughter under the age of 18 if the school or place of care has closed or the childcare provider is unavailable due to a public health emergency.

The expanded FMLA leave is *part of, not in addition to*, the twelve (12) weeks of leave available under regular FMLA. Therefore, any regular FMLA leave used within the 12 months prior to a request for expanded FMLA leave would count toward the amount of leave available under this policy.

The information listed below highlights the rights and obligations of employees and employers under the Act, which are covered under federal regulations. This information is intended to be a summary of these regulations, and in any case, the precise rights and obligations of employees and the Board of Lucas County Commissioners will be governed by the law itself.

III. DURATION

This policy is temporary and in effect from April 1, 2020 until December 31, 2020.

IV. ELIGIBILITY

1. Eligible employee is defined as one who has been employed by the County for at least one (1) work day prior to the date the expanded FMLA leave begins.
2. Employees who are "health care providers" or "emergency responders", as those terms are defined by the Federal Regulations, may be excluded from leave under this policy at the discretion of the Employer.

V. QUALIFYING REASON FOR LEAVE

1. Leave under this policy is limited to circumstances where an employee is unable to work or telework due to the need to care for a son or daughter of the employee under the age of 18 if the school or place of care has closed or the childcare provider is unavailable due to COVID-19.
2. This includes a son or daughter of the employee over the age of 18 if the son or daughter is incapable of self-care because of a mental or physical disability under the Americans with Disabilities Act.
3. Employees taking leave under this policy must be physically present with the son or daughter during regular work hours and otherwise act in a manner consistent with the need for this leave.

VII. DURATION OF LEAVE

1. Eligible employees are entitled to up to twelve (12) weeks of expanded FMLA leave. This leave entitlement is reduced by the amount of leave the employee has taken under regular FMLA in the twelve (12) months prior to commencement of leave under this policy.
2. The maximum amount of combined leave employees are entitled to under regular FMLA and expanded FMLA is twelve (12) weeks.

VIII. COMPUTATION OF PAY

1. The first two (2) calendar weeks of leave are unpaid. Eligible employees may elect to use available emergency paid sick leave, or, with the permission of the Board of Lucas County Commissioners, may utilize accrued sick, vacation, personal, or compensatory leave during this period.
2. If an eligible employee elects emergency paid sick leave during the first ten (10) days (in other words, the first two (2) calendar weeks) of expanded FMLA leave, then s/he shall be paid at **2/3** of the greater of their regular rate of pay or minimum wage, capped at \$200 per day or \$2,000 aggregate for the two (2) week period.
3. If an eligible employee elects to use their own accrued sick, vacation, personal, or compensatory leave during the first ten (10) days (in other words, the first two (2) calendar weeks) of expanded FMLA, they shall be paid at **100%** their regular rate of pay.
4. After the first two (2) calendar weeks of leave, eligible employees are entitled for up to ten (10) weeks of expanded FMLA leave at **2/3** the greater of the employee's regular rate of pay or minimum wage, capped at \$200 per day or \$10,000 aggregate for the remaining ten (10) week period.

5. Eligible employees may elect, with the permission of the Board of Lucas County Commissioners, to supplement the 2/3 pay under this policy with their own accrued sick, vacation, personal, or compensatory leave to avoid the 1/3 loss of income.

IX. EMPLOYEE NOTICE

1. If the need for leave under this policy is foreseeable, the employee shall notify her/his immediate supervisor as soon as practicable.
2. The employee must follow the reporting procedures set forth in the Board of Lucas County Commissioners' Sick Leave Policy, applicable collective bargaining agreement articles, work rules and regular Family and Medical Leave Policy for continued absence.

X. INTERMITTENT LEAVE

1. An employee may take intermittent leave or reduced work schedule leave under this policy with the approval of the Board of Lucas County Commissioners.
2. Requests for intermittent or reduced work schedule leave must be submitted in writing to the employee's immediate supervisor as soon as practicable. The immediate supervisor must agree to the employee's request for intermittent leave or reduced work schedule leave as well as the increments of time in which such leave may be taken.

XI. DOCUMENTATION OF NEED FOR LEAVE

1. An employee requesting leave must provide the Board of Lucas County Commissioners with written documentation in support of the reason for this expanded FMLA leave. Such documentation includes:
 - a. The date(s) for which the leave is requested;
 - b. The COVID-19 qualifying reason for leave;
 - c. A statement representing the employee is unable to work or telework because of COVID-19 qualifying reason;
 - d. The name(s) and age(s) of the son(s) or daughter(s) whose school or place of daycare is closed or whose childcare provider is unavailable;
 - e. The name of the school, place of care, or childcare provider that closed or became unavailable, including supporting documentation such as notice of the closure published by the government, school, or daycare, or notice on a website or in the newspaper, or email from the school, place of daycare, or childcare provider;

f. A statement that no other suitable person is available to care for the child during the period of requested leave.

2. For leave taken under the Board of Lucas County Commissioners' regular FMLA policy for an employee's own serious health condition related to COVID-19 reasons, or to care for the employee's spouse, son, daughter, or parent with a serious health condition related to COVID-19, the regular FMLA certification requirements apply.

XII. REINSTATEMENT

Employees who take leave under this policy will be reinstated to the same or similar position upon return from leave except for cases in which the position the employee held prior to taking expanded FMLA leave is not available due to an action that would have affected the employee regardless of whether expanded FMLA leave was taken.

XIII. RETALIATION

An employee will not be disciplined, discharged, or retaliated against for taking leave or filing a complaint, instituting a proceeding, or testifying in a proceeding under the FFCRA or this policy.



County Administrator

August 11, 2020

Date: August 11, 2020

Resolution No. 20-611

Title: Amendments to the “Emergency COVID-19 Family & Medical Leave Expansion Policy” of the Board of Lucas County Commissioners

Department/Agency: Human Resources

Contact: Brian Cunningham

Summary/Background: The federal “Families First Coronavirus Response Act” passed into law earlier this year expanded the applicability of the existing Family & Medical Leave Act (FMLA) to include specific absences related to child care needs that resulted from COVID-19, through December 31, 2020. We recommend that the Board amend our policy providing this leave opportunity by changing the employee eligibility requirement from “30 calendar days” to “one work day” as well as to permit accrued but unused sick leave to be used to supplement the 2/3 pay provided by the law.

Budget Impact: Since employees/positions are budgeted for a full year, there is no impact.

Statutory Authority/ORC: N/A

Commissioner Byers offered the following resolution:

WHEREAS, in consideration of the above, NOW, THEREFORE BE IT RESOLVED by the Board of County Commissioners, Lucas County, Ohio, that:

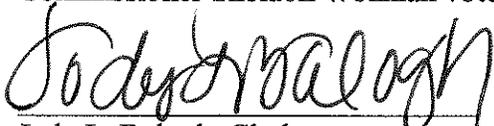
Section 1. The “Emergency COVID-19 Family & Medical Leave Expansion” policy is hereby amended as described above and reflected in the attached policy.

Section 2. This Board finds and determines that all formal actions of this Board concerning and relating to the adoption of this resolution were taken in an open meeting of this Board and that all deliberations of this Board that resulted in those formal actions were in meeting open to the public in compliance with the law.

Section 3. This resolution shall be in full force and effect from and immediately upon its adoption.

Action Taken:

Commissioner Byers voted yes
Commissioner Gerken voted yes
Commissioner Skeldon Wozniak voted yes



Jody L. Balogh, Clerk