

# Yamhill County



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## OFFICE OF COUNTY ADMINISTRATOR

DATE: March 31, 2020

TO: All County Employees

FROM: Ken Huffer, County Administrator

SUBJECT: Temporary Novel Coronavirus/COVID-19 Emergency Leave Policy (EFMLEA and EPSLA) – Effective April 1, 2020.

**KENNETH HUFFER**  
COUNTY ADMINISTRATOR

**JUSTIN HOGUE**  
BUSINESS SERVICES DIRECTOR

In response to changes in federal law (the Families First Coronavirus Response Act, the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act) and Oregon law (the Oregon Family Leave Act, per administrative regulation), and pursuant to Board Order 20-93, the County Administrator for Yamhill County issues the following temporary policy. This policy goes into effect April 1, 2020, and ends on December 31, 2020, unless specified below or unless Yamhill County announces a continuation of this policy in writing.

This temporary policy does not replace Yamhill County's existing policies on FMLA, OFLA, FET, PEL, compensatory time, vacation or sick leave, and should be read in conjunction with those policies. Questions about this temporary policy should be directed to Human Resources.

### **COVID-19 Paid Sick Leave**

If an employee is unable to work or telework due to a qualifying reason related to the COVID-19 pandemic, they will be eligible to take paid leave as described below. All employees are eligible for this type of leave with two exceptions that are identified below. This leave is in addition to paid leave (FET, PEL, compensatory, vacation, and sick) employees accrue under Yamhill County's Sick Leave Policy or applicable collective bargaining agreements; employee's accrued leave will not be withdrawn from leave taken under this temporary policy.

#### **Exceptions**

COVID-19 Paid Sick Leave is not available to health care providers or emergency responders.

For purposes of this temporary policy "health care providers" under the FFCRA are defined under 29 CFR §825.12 and pursuant to guidance provided by the US Department of Labor.

For purposes of this temporary policy "emergency responders" under the FFCRA are defined as (i) law enforcement personnel, (ii) emergency response public works support personnel and (iii) emergency response health care personnel, including but not limited to public health, behavioral health and mental health personnel providing critical services. (iv) employees identified as "emergency responders" by the US Department of Labor. Exceptions to these exclusions may be made by the County on a case-by-case basis.

## Qualifying Reasons for COVID-19 Paid Sick Leave

1. *Quarantine* — to comply with a federal, Oregon, or local quarantine or isolation order related to COVID-19. This does not include situations where a federal, state, city or county official orders its residents to “shelter in place” or “stay at home”.
2. *Self-Quarantine* — to self-quarantine, if the employee has been advised to do so due to concerns related to COVID-19 by a local health care provider.
3. *Diagnosis*— to obtain a medical diagnosis if the employee is experiencing symptoms of COVID-19.
4. *Care for a Quarantined Individual* — to care for an individual required to be quarantined as described under subparagraph 1 or advised to be quarantined as described under subparagraph 2.
5. *Child Care* — to care for an employee’s son or daughter if the son or daughter’s school or place of care or childcare provider has been closed or is unavailable due to COVID-19 precautions.
6. *Substantially Similar Care* — the employee is experiencing any other substantially similar condition as specified by the federal secretaries of Health and Human Services, Treasury or Labor.

“Son or daughter” – For purposes of this paid sick leave, a “son or daughter” is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence.

## Accrual of and Requesting COVID-19 Paid Sick Leave

Full-time employees will receive up to 80 hours of COVID-19 Paid Sick Leave. The number of hours of COVID-19 Paid Sick Leave available to part-time employees depends on the number of hours the employee is scheduled to work during a two-week period, and may be calculated using the average number of hours worked in the six months leading up to the leave’s start. As an example, if a part-time employee works, on average, 20 hours per week, the employee would be entitled to 40 hours of COVID-19 Paid Sick Leave.

Any unused COVID-19 Paid Sick Leave will not carry over into 2021. Employees will not be paid the value of any unused COVID-19 Paid Sick Leave if they quit, retire, or are fired.

Although COVID-19 Paid Sick Leave is available to employees immediately, employees must follow their Department’s call-in requirement for regular sick leave.

Further, employees will be expected to provide verification of the need for COVID-19 Paid Sick Leave, as follows:

1. *Quarantine* — A copy of the order from a federal, Oregon or local government entity requiring quarantine or isolation relating to COVID-19. This order must include the employee’s name or other identifying information sufficient to allow Yamhill County to conclude that the order affects a particular employee.
2. *Self-Quarantine* — Written verification of the need to self-quarantine due to concerns related to COVID-19 from the employee’s health care provider.
3. *Diagnosis* — Written verification of employee’s effort to receive a medical diagnosis for COVID-19 if the employee is experiencing symptoms of COVID-19.
4. *Care for a Quarantined Individual* — A copy of the order or other documentation from a federal, Oregon or local government regarding the individual’s requirement to be quarantined that

includes the individual's name, or written verification of the need to quarantine from the individual's health care provider.

5. *Childcare* — No verification is required for school or place of care closures due to COVID-19 issues if evidence of closure is publicly available. Written verification from the “place of care” regarding the provider's unavailability to provide childcare due to a public health emergency is required.
6. *Substantially Similar Care* — Written verification of the employee's need to stay home from work from the employee's health care provider due to substantially similar conditions as specified by the federal secretaries of Health and Human Services, Treasury or Labor.

#### Caps on Value of COVID-19 Paid Sick Leave

For leave due to reasons (1), (2) (3), (4) and (6) above, an employee will earn the employee's regular rate of pay up to a maximum of \$5,110. For leave due to reason (5), above, an employee will earn 2/3 of the employee's regular rate of pay up to a maximum of \$2,000.

Employees who receive COVID-19 Paid Sick Leave may supplement this pay with accrued FET, PEL, compensatory or vacation/sick leave to meet their full salary expectations, but they will not be paid from both COVID-19 Paid Sick Leave and FET, PEL, compensatory time or vacation/sick leave for the same hours.

#### **Family Medical Leave Act and Oregon Family Leave Act - Policy for School Closures**

The leave of absences available under this section of this temporary policy, under FMLA and OFLA, will be referred to as “School Closure Leave”, regardless of the terminology used in both laws. If not specifically addressed in this temporary policy, all other provisions in Yamhill County's family medical leave policies apply.

#### Definitions

“Son or daughter” – For purposes of FMLA leave, a “son or daughter” is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence. For purposes of OFLA, “child” includes a biological, adopted, foster or stepchild, the child of a registered same-sex domestic partner or a child with whom the employee is in a relationship of in loco parentis. For purposes of OFLA, the “son or daughter” must be under the age of 18 or over 18 if incapable of self-care.

“Place of care” includes childcare providers, and means a provider who receives compensation for providing childcare services on a regular basis,

“School” means elementary or secondary school. Community college, university, college, or other post-secondary schools are not included.

#### Eligibility Requirements

FMLA: Employees who have worked for Yamhill County in the 30 calendar days leading up to the start of the School Closure Leave.

OFLA: Employees who have been employed for at least 180 days and worked an average of at least 25 hours per week leading up to the start of the School Closure Leave.

### Exceptions

COVID-19 Paid Sick Leave is not available to health care providers or emergency responders.

For purposes of this temporary policy “health care providers” under the FFCRA are defined under 29 CFR §825.12 and pursuant to guidance provided by the US Department of Labor.

For purposes of this temporary policy “emergency responders” under the FFCRA are defined as (i) law enforcement personnel, (ii) emergency response public works support personnel and (iii) emergency response health care personnel, including but not limited to public health, behavioral health and mental health personnel providing critical services. (iv) employees identified as “emergency responders” by the US Department of Labor. Exceptions to these exclusions may be made by the County on a case-by-case basis.

### Length of Leave

FMLA: Up to 12 weeks of leave, to be taken any time during the period of April 1, 2020 and December 31, 2020. For example, if FMLA School Closure Leave is started on December 1, 2020, the employee will not be allowed to continue the School Closure Leave past December 31, 2020, even if the employee still has available FMLA leave. An employee’s ability to take FMLA leave for other purposes before or after School Closure Leave depends on the employee’s eligibility under FMLA.

OFLA: Eligible employees may take up to 12 weeks of unpaid leave, to be taken any time during the period of March 18, 2020, to September 13, 2020. The 12 weeks of School Closure Leave must be used before September 13, 2020; no available School Closure Leave may be used after September 13, 2020.

School Closure Leave under FMLA and OFLA will run concurrently, where applicable. Yamhill County will apply the law that is most generous to the employee if the School Closure Leave runs concurrently.

### Notice and Verification

FMLA: Where the necessity for School Closure Leave is foreseeable, an employee shall provide the employer with as much notice as practicable.

OFLA: Employees must provide at least 30 days’ notice before School Closure Leave is to begin if the reason for School Closure Leave is foreseeable. If 30 days’ notice is not foreseeable or practical, an employee must give verbal or written notice to Yamhill County within 24 hours of commencement of the School Closure Leave.

Under both FMLA and OFLA School Closure Leave, no verification is required for school closures due to a public health emergency if evidence of closure is publicly available. Written verification from the “place of care” about the provider’s unavailability to provide childcare due to a public health emergency is required.

## Benefits During Leave

FMLA: The first ten days of School Closure Leave are unpaid; employees may, however, use COVID-19 Paid Sick Leave or any other accrued paid leave during this period. After the first ten days of School Closure Leave, and for each day thereafter, Yamhill County will provide paid leave calculated at two-thirds of an employee's regular rate of pay and the number of hours the employee would otherwise normally be scheduled to work. Paid School Closure Leave will not exceed \$10,000 in the aggregate.

Employees who receive School Closure Leave may supplement their pay with accrued COVID-19 Paid Sick Leave, or FET, PEL, compensatory time or vacation/sick leave under Yamhill County's policies, to meet their full salary expectations, but they will not be paid from both School Closure Leave and COVID-19 Paid Sick Leave for the same hours.

OFLA: OFLA School Closure Leave is unpaid. Employees may, however, use any accrued paid leave during the period of OFLA School Closure Leave.

### **Health Care Coverage Continuation for COVID-19 Paid Sick Leave and School Closure Leaves**

If an employee is on approved COVID-19 Paid Sick Leave or School Closure Leave under either or both laws, Yamhill County will continue the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. An employee wishing to maintain health insurance during a period of approved School Closure Leave will be responsible for bearing the cost of the employee's share of group health plan premiums which had been paid by the employee prior to the School Closure Leave. The School Closure Leave period will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in Yamhill County's benefit plans.

### **Job Protection for COVID-19 Paid Sick Leave and School Closure Leaves**

FMLA and OFLA: Employees returning to work from COVID-19 Paid Sick Leave or School Closure Leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring School Closure Leave have been resolved, even if School Closure Leave was originally approved for a longer period. If an employee does not return to work at the end of a designated School Closure Leave period, reinstatement may not be available unless the law requires otherwise.

### **No-Retaliation for COVID-19 Paid Sick Leave and School Closure Leaves**

Yamhill County will issue discipline, up to and including termination, to anyone who retaliates against an employee who asks about, requests or uses COVID-19 Paid Sick Leave or School Closure Leave.

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# COVID-19 Request for Leave

Date of Request: \_\_\_\_\_

Employee Name: \_\_\_\_\_ Department: \_\_\_\_\_

Supervisor Name: \_\_\_\_\_

**DATES OF LEAVE:** Begin: \_\_\_\_\_ End on: \_\_\_\_\_

## **REASON FOR REQUESTED LEAVE**

\_\_\_\_\_ **COVID-19 Paid Administrative Leave (Yamhill County BO 20-91)** Yamhill County will pay regular salary for up to fourteen (14) consecutive calendar days for (Available through April 17, 2020):

- An employee who has been directed by a public health authority or court to remain in isolation or quarantine because of a diagnosis of or exposure to COVID-19;
- An employee who has entered into an agreement with state or local government to remain in isolation or quarantine because of a diagnosis of or exposure to COVID-19; or
- An employee who is the primary caregiver for (1) or (2) and cannot work remotely.

Name and relationship of person in isolation/quarantine: \_\_\_\_\_

\_\_\_\_\_ **COVID-19 Paid Sick Leave (Emergency Paid Sick Leave (EPSLA))** Up to 80 hours of paid sick time (prorated for part-time) to the extent the employee is unable to work or telework due to the need for leave for (Available April 1 through December 31, 2020):

- Quarantine (#1)— to comply with a federal, Oregon or local quarantine or isolation order related to COVID-19. This does not include situations where a federal, state, city or county official orders its residents to “shelter in place” or “stay at home”.
- Self-Quarantine (#2) — to self-quarantine, if the employee has been advised to do so due to concerns related to COVID-19 by a local health care provider.
- Diagnosis (#3) — to obtain a medical diagnosis if the employee is experiencing symptoms of COVID-19.
- Care for a Quarantined Individual (#4) — to care for an individual required to be quarantined as described under #1 or advised to be quarantined as described under #2.
- Child Care (#5) — to care for an employee’s son or daughter if the son or daughter’s school or place of care or childcare provider has been closed or is unavailable due to COVID-19 precautions.
- Substantially Similar Care (#6) — the employee is experiencing any other substantially similar condition as specified by the federal secretaries of Health and Human Services, Treasury or Labor.

#1 and #4: Relationship of person in isolation/quarantine: \_\_\_\_\_

#5: Age of child(ren): \_\_\_\_\_

COVID-19 Paid Sick Leave Notes: For leave due to reasons (1), (2) (3), (4) and (6) above, an employee will earn the employee's regular rate of pay up to a maximum of \$5,110. For leave due to reason (5), above, an employee will earn 2/3 of the employee's regular rate of pay up to a maximum of \$2,000. See Policy.

       **School Closure Leave** (Emergency Family and Medical Leave Expansion Act (EFMLEA)) If employee is unable to work (or telework) due to a need to care for a son or daughter under 18 years of age, if the school or place of care has been closed, or child care provider of such son or daughter is unavailable, due to a public health emergency. This law is effective April 1, 2020 through December 31, 2020.

Age of child(ren): \_\_\_\_\_

Name of school or place of care: \_\_\_\_\_

School Closure Leave Notes: The first ten days of School Closure Leave are unpaid; employees may, however, use COVID-19 Paid Sick Leave or any other accrued paid leave during this period. After the first ten days of School Closure Leave, and for each day thereafter, Yamhill County will provide paid leave calculated at two-thirds of an employee's regular rate of pay and the number of hours the employee would otherwise normally be scheduled to work. Paid School Closure Leave will not exceed \$10,000 in the aggregate. See Policy

       **Serious Health Condition:** *(Use of both OFLA/FMLA may apply)*

       To care for my own serious health condition.

       To care for a family member with a serious health condition (check one):

<input type="checkbox"/>	Spouse	<input type="checkbox"/>	Parent
<input type="checkbox"/>	Domestic Partner (same gender)	<input type="checkbox"/>	Parent-in-Law
<input type="checkbox"/>	Adult Child over the age of 18 incapable of self-care due to disability	<input type="checkbox"/>	Parent of Domestic Partner
<input type="checkbox"/>	Child (biological, adopted, foster, in-loco-parentis, stepchild)	<input type="checkbox"/>	Grandparent
<input type="checkbox"/>	Child of Domestic Partner	<input type="checkbox"/>	Grandchild

**Sick Child Leave:** *(OFLA- Temporary Administrative Order BLI-2020 - Effective through September 13, 2020)*

       To care for a child whose school or place of care has been closed in conjunction with a statewide public health emergency declared by a public health official. (Temporary Administrative Order BLI-2020. Effective from March 18, 2020 through September 13, 2020)

I understand that I may be required to provide complete and sufficient certification to support my request; and I understand that my leave may be delayed until I return the appropriate certification form.

I acknowledge that I understand my employer's family leave policies. I attest all information is true and accurate to the best of my knowledge.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

***Return completed form to Mikalie Moreno at [morenom@co.yamhill.or.us](mailto:morenom@co.yamhill.or.us).***