



## PERSONNEL POLICY

### SUBJECT: CORONAVIRUS DISEASE 2019 (COVID-19) RESPONSE

DATE: June 15, 2020

Number: 112-20

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#### I. Statement of the Policy

Fulton County is committed to protecting the health and safety of its employees and citizens while ensuring continuity of operations (COOP) during the declared public health state of emergency related to Coronavirus Disease 2019 (COVID-19). The County seeks to mitigate the health and economic impact of COVID-19 on its workforce and to comply with the requirements of the Family and Medical Leave Act (“FMLA”), as amended by the Families First Coronavirus Response Act of 2019. Therefore, it shall be the policy of Fulton County to establish the following leave categories as required by the Families First Coronavirus Response Act of 2019 to eligible employees for certain COVID-19-related reasons:

- Emergency Family and Medical Leave; and
- Emergency Paid Sick Leave.

#### II. Definitions

“Emergency Family and Medical Leave” is an authorized absence from work provided to eligible employees for specified family and medical circumstances related to COVID-19 in accordance with federal law.

“Emergency Paid Sick Leave” entitles an eligible employee, pursuant to federal law, to receive his or her regular rate of pay during absences related to or resulting from the employee's or a family member's illness, injury, or exposure to COVID-19 or the closure of the employee's child's school or day care facility due to a public health emergency.

These policies do not create a contract of employment. Employment for non-classified employees remains “at will”.

### **III. Applicability**

This policy shall apply to employees of Fulton County, and elected officials to the extent they adopt the same, but the emergency family and medical leave established herein shall not extend to health care providers or emergency responders.

### **IV. Establishment and Implementation of Procedure**

The County Manager, in consultation with the Chief Human Resources Officer and the County Attorney, is authorized to establish and modify, as needed, a procedure for implementing this policy.

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## PERSONNEL PROCEDURE

**SUBJECT: CORONAVIRUS DISEASE 2019 (COVID-19) RESPONSE**

DATE: September 18, 2020

Number: 112-20

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Fulton County is committed to taking every precaution to ensure the health and well-being of employees and the safety of the workplace during the Coronavirus Disease 2019 (COVID-19) pandemic. Fulton County will continue to implement all measures necessary to mitigate the spread of the disease. In establishing this Procedure, Fulton County intends to ensure a clear understanding and uniform administration of paid leave under the federal Families First Coronavirus Response Act (FFCRA) for employees affected by the COVID-19 pandemic. In addition, this procedure implements CDC guidelines regarding the use of cloth face coverings in public settings where other social distancing measures are difficult to maintain. To the extent any part of this Procedure conflicts with applicable law, the requirements of applicable law will control.

### I. DEFINITIONS

- “Appointing Authority” refers to the executive head of a department who is authorized by statute or delegated the authority to make appointments to fill positions.
- “Child Care Provider” refers to a provider who receives compensation for providing child-care services on a regular basis, including an “eligible child care provider” (as defined in section 658P of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. § 9858n)).
- “Emergency Responder” refers to anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well

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as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual whom the Governor of Georgia determines is an emergency responder necessary for the State's response to COVID-19.

- “EPSL” refers to federal paid sick leave provided under the Emergency Paid Sick Leave Act.
- “Emergency Family and Medical Leave” or “EFML” refers to paid leave under the Emergency Family and Medical Leave Expansion Act.
- “Health care provider” refers to anyone employed at the Fulton County Board of Health. This also includes any individual that Governor of Georgia determines is a health care provider necessary for the State's response to COVID-19.
- “Public Health Emergency” refers to an emergency with respect to COVID-19 declared by a Federal, State, or local authority
- “School” refers to an “elementary school” or “secondary school” as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 7801).

## **II. Emergency Paid Sick Leave (EPSL)**

### **A. Eligibility**

All employees are eligible, upon hire, to use EPSL for qualifying reasons related to COVID-19.

### **B. Qualifying Reasons for EPSL**

A full-time employee is eligible for up to eighty (80) hours or ten (10) workdays of EPSL at the employee's regular rate of pay if the employee is unable to work or telework because of any of the following reasons:

- 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 is seeking a medical diagnosis.
- The employee is caring for an immediate family member or household member who is subject to a Federal, State, or local quarantine or

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isolation order related to COVID-19 or who has been advised as by a health care provider to self-quarantine due to concerns related to COVID-19.

- The employee is caring for a child whose school or place of care has been closed, or whose child care provider is unavailable, for reasons related to COVID-19.
- The employee is experiencing any other substantially similar conditions as specified by the Secretary of the United States Department of Health and Human Services.

A part-time, temporary or other employee who normally works less than 40 hours per work week is entitled to a pro-rated amount of EPSL based on the average number of hours the employee works over a typical two-week period. For example, employees who work 48 hours during a normal two-week period, will be eligible for up to 48 hours of EPSL. ESPL is in addition to any sick leave currently provided by Fulton County.

### **C. Fulton County Responsibilities**

It shall be the responsibility of each Appointing Authority to comply with the provisions of the FFCRA including, but not limited to, the following:

1. Posting the federal FFCRA poster in a central location within the department, and at all satellite offices and to disseminate this policy and poster to all staff through electronic measures due to the nature of the crisis requiring many staff to work from home.
2. Restoring eligible employees to his or her same or equivalent position at the conclusion of the period of leave.
3. Refraining from interfering with, restraining, or denying the exercise of any right provided by FFCRA.

It shall be the responsibility of the Department of Human Resources Management to prescribe forms necessary for compliance with the provisions of the Emergency Paid Sick Leave Act ("EPSLA").

### **D. Employee Responsibilities**

It shall be the responsibility of each employee to comply with the provisions of FFCRA including, but not limited, to the following:

1. Providing notice of the need for EPSL as soon as practicable.

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2. Completing the Emergency Paid Sick Leave (EPSL) Employee Request Form including identifying the reason the leave is requested and submitting required documentation for determination of eligibility to the department's HR Liaison.
3. Comply with any procedural requirements for requesting leave established by the Appointing Authority.

#### **E. Providing Notice of the Need for EPSL**

Employees should notify their Appointing Authority of the need for emergency paid leave as soon as possible. Prior to requesting EPSL, an employee who is unable to work onsite for an EPSL-qualifying reason should discuss the situation with his/her Appointing Authority and, if appropriate, seek approval to telecommute (*i.e.*, work remotely from home) pursuant to the Telecommuting Policy and Procedure (335-16). If the employee is unable to telecommute, the employee should contact the HR Liaison for his/her department to complete an Emergency Paid Sick Leave (EPSL) Employee Request Form, indicating the specific qualifying reason and date of requested leave. The HR Liaison shall promptly forward the EPSL Employee Request form to the Department of Human Resources Management (DHRM) for further processing.

If an employee is incapacitated and unable to contact his/her Appointing Authority directly, a member of the employee's family or another individual acting on the employee's behalf should provide verbal notice of the employee's need for EPSL as soon as possible. Calling in "sick" does not qualify as adequate notice. An employee must provide sufficient information regarding the reason for an absence for Fulton County to know that protection and benefits may exist under this procedure.

Following the first workday (or portion thereof) that an employee receives EPSL, the employee must follow reasonable notice procedures as determined by Fulton County in order to continue to receive EPSL.

#### **F. Certification**

Generally, Fulton County will require certification to verify the qualifying reason for EPSL. Upon receipt of a request for EPSL, the DHRM shall notify an employee if documentation is required. Employees should be prepared to provide documentation such as a copy of any quarantine or isolation order, or written note by a health care provider advising self-quarantine, or a notice of closure of school or childcare provider (*i.e.* email, notification on website, or news article).

Fulton County understands that requesting healthcare provider documentation may place additional burdens on the medical community during the COVID-19 pandemic, therefore if an employee is unable to obtain this documentation, at a minimum, the name, address, and phone number of your treating healthcare provider must be provided. Fulton County also reserves the right, in its sole discretion, to request additional documentation from an employee's healthcare provider or childcare provider, as applicable, in situations where there is reason to believe an employee has fraudulently obtained EPSL.

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Upon receipt of the required documentation, the DHRM will evaluate the request and may contact the employee, HR Liaison and the employee's immediate supervisor in doing so. The DHRM then will issue a decision regarding the employee's request for EPSL, which will be emailed to the employee, the Appointing Authority and HR Liaison. If EPSL is approved, the DHRM will specify the duration of the leave to be taken.

### **G. Intermittent or Reduced Schedule Leave**

Fulton County encourages departments and employees to collaborate to achieve flexibility and meet mutual needs, and Fulton County is supportive of voluntary arrangements that combine telework and intermittent leave. Unless an employee is teleworking, however, once the employee begins taking EPSL for one or more qualifying reasons, the employee must continue to take EPSL each day until either:

- (1) The employee uses the full amount of paid sick leave; or
- (2) The employee no longer has a qualifying reason for taking EPSL.

Where an employee no longer has a qualifying reason for taking EPSL and the employee has not exhausted his/her EPSL, the employee may take any remaining EPSL at a later time, until December 31, 2020, if another qualifying reason occurs.

An employee may take EPSL intermittently if the employee is taking EPSL to care for his or her child whose school or place of care is closed, or whose child care provider is unavailable, because of COVID-19 related reasons. For example, if the employee's child is at home because his or her school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, the employee may take EPSL on Mondays, Wednesdays, and Fridays to care for his or her child, but work at his or her normal worksite on Tuesdays and Thursdays.

An employee may take intermittent leave in any increment, provided that the employee and the department agree.

### **H. Separation from Employment**

Employees are not entitled to reimbursement for unused leave upon dismissal, resignation, retirement, or other separation from employment. If an employee's employment should end for any reason, any unused EPSL shall be forfeited by the employee.

### **I. Returning to Work Following EPSL**

Once the qualifying reason for which an employee took EPSL has concluded, the employee must return to work on the employee's next regularly scheduled workday or shift.

Employees are required to follow guidelines established by the U.S. Centers for Disease Control and Prevention (CDC) as it relates to ceasing home isolation practices. Prior to returning to work from home isolation or self-quarantine, an employee may be required, as a condition of returning to work, to obtain and present certification from the

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employee's health care provider that the employee is able to resume work and can safely perform the essential functions of the employee's job.

#### **J. Overtime**

EPSL does not count as hours worked for purposes of calculating a non-exempt employee's entitlement to overtime.

#### **K. No Need for Replacement Employee**

Employees who take EPSL are not required to search for or find a replacement employee to cover the hours during which the employee is using EPSL.

#### **L. Other Leave Options**

An employee who does not fall within any of the six (6) qualifying reasons for EPSL may have other options available to them including, but not limited to, the following:

- The employee may request to use accrued personal leave.
- The employee may, request a reasonable accommodation under the Americans with Disabilities Act (the "ADA") by contacting the ADA Unit of the Department of Diversity and Civil Rights Compliance ("DCRC").
- The employee may request leave under the Family and Medical Leave Act (the "FMLA") though the County's third party administrator, Sedgwick, at 888-436-9530 or via the company's employee portal at [timeoff.sedgwick.com](http://timeoff.sedgwick.com).

#### **M. Prohibition of Retaliation**

Fulton County does not condone and will not tolerate, any adverse action being taken against an employee because of that employee's exercise or attempt to exercise his/her rights under the Emergency Paid Sick Leave Act (EPSLA). No employee of Fulton County will be subjected to any adverse action because of that employee's bona fide opposition to or complaint about any alleged unlawful practice under the EPSLA. Finally, no employee will be subjected to any adverse action as a result of giving any information and/or testimony relating to any rights under the EPSLA.

#### **N. Confidentiality**

Documents relating to diagnoses or medical histories of employees or employees' family members will be maintained separately and treated by Fulton County as confidential medical records, except that in some legally recognized circumstances, the records (or information in them) may be disclosed to supervisors and managers, first aid and safety personnel, government officials or Fulton County's legal counsel.

In addition to any other discipline already outlined in this policy, any employee who violates the confidentiality provisions of this policy could be subject to discipline up to and including termination.

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## **O. Fraudulent Use of EPSL Prohibited**

An employee who fraudulently obtains EPSL from Fulton County is not protected by EPSLA's job restoration provisions. In addition, Fulton County will take all available appropriate disciplinary action against such employee due to such fraud.

## **P. Effective Date and Expiration**

These provisions pertaining to EPSL become effective on April 1, 2020 and shall expire on December 31, 2020, or earlier upon such notice from Fulton County. EPSL does not carry over from one year to the next.

# **III. EMERGENCY FAMILY AND MEDICAL LEAVE**

## **A. Eligibility**

With the exception of "Emergency Responders" or "Health Care Providers," Emergency Family and Medical Leave (EFML) is available to all employees that have been employed for at least 30 calendar days.

## **B. Qualifying Reasons for EFML**

The use of EFML is limited to circumstances where an employee is unable to work remotely or at an assigned worksite due to a need to care for the employee's child, who is under the age of 18 or who has a disability under the ADA, if the child's elementary school or secondary school or place of care has been closed or is unavailable, due to COVID-19.

## **C. Amount of EFML Available**

The FMLA provides eligible employees up to 12 workweeks of unpaid leave during a 12-month period when leave is taken for certain qualifying family and medical reasons. The Emergency Family and Medical Leave Expansion Act (EFMLEA) expands the FMLA to provide a combination of unpaid and paid leave to eligible employees who are unable to work or telework due to a need to care for the employee's son or daughter (under 18 years of age) if the child's elementary or secondary school or place of care has been closed, or the child care provider of the child is unavailable due to COVID-19.

The first two weeks of EFML will be unpaid. An employee may choose to utilize paid leave including compensatory, vacation, holiday earned or EPSL during the first two weeks.

After the first two weeks of unpaid leave, employees are entitled to ten (10) weeks of paid job-protected leave. Fulton County will require employees to utilize any compensatory leave, vacation leave or holiday earned available to them under the Time Away from Work Policy and Procedure (337-16) during the last ten (10) weeks of EFML. An employee will be compensated at his/her regular rate of pay until all accrued compensatory leave, vacation leave or holiday earned is exhausted. ***Employees will not be permitted to use accrued sick leave due to school or place of care closures or***

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***child care provider unavailability for COVID-19 related reasons.***

Once an employee exhausts all accrued compensatory leave, vacation leave or holiday earned, the employee will continue to be paid for each subsequent week of emergency family and medical leave taken in an amount equal to 2/3 of the employee's regular rate of pay as determined under the Fair Labor Standards Act (FLSA) and based on the number of hours the employee would otherwise be normally scheduled to work, up to \$200 per workday and \$10,000 total.

For any employee whose schedule varies from week to week to such an extent that Fulton County is unable to determine with certainty the number of hours the employee would have worked if the employee had not taken EFML, the employee will be paid based on the average number of hours the employee was scheduled per day over the six (6) month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type. Nonetheless, paid EFML will be capped at \$200 a day and \$10,000 total.

***An employee may not take more than a total of TWELVE (12) workweeks of leave under the FMLA, including under the Emergency Family and Medical Leave Expansion Act, during a 12-month period.*** EFML is not available when an employee has exhausted FMLA leave during the applicable 12-month period. An employee who has taken some, but not all twelve (12) workweeks of EFML by December 31, 2020, may take the remaining portion of FMLA leave for other FMLA qualifying reasons, as long as the total time taken does not exceed 12 workweeks in the applicable 12-month period. EFML is available only until December 31, 2020; after that, employees may only take FMLA leave.

**D. Intermittent or Reduced Schedule Leave**

Emergency Family and Medical Leave may be taken intermittently or on a reduced schedule basis in accordance with Fulton County's Family and Medical Leave (FMLA) Policy and Procedure (104-16).

**E. Requesting EFML**

The provisions of Fulton County's Family and Medical Leave (FMLA) Policy and Procedure (104-16), including all notice and certification requirements, apply to all requests for leave under the Emergency Family and Medical Leave Expansion Act. Employees may request EFML through the County's third party FMLA administrator, Sedgwick, at 888-436-9530 or via the company's employee portal at [timeoff.sedgwick.com](http://timeoff.sedgwick.com). Employees using paid leave while on EFML are subject to County policies governing use of paid leave and must comply with normal departmental call-in procedures for reporting absences from work.

**IV. MANDATORY FACE COVERINGS**

To the extent practical, each employee who is present in the workplace will be required to wear a face covering that covers his or her mouth and nose when in direct

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contact (*i.e.*, six feet or less) with customers, members of the public or other employees. Face coverings include, but are not limited to, cloth material (e.g. homemade sewn, quick cut, bandana), surgical masks, N-95 respirators, and face shields.

Fulton County will provide, at its expense, such face coverings to employees; however, employees will be permitted to wear their own face covering at work, including homemade face coverings, so long as it meets some basic safety criteria:

- Coverings should fit snugly to the face and not be loose.
- Materials should be short or secured to not cause an entanglement problem with equipment or machinery.
- Coverings must not obstruct the employee's vision.
- Coverings must not impair the functionality of other required Personal Protective Equipment (PPE).

Face coverings in the following condition are not acceptable and should be discarded:

- Coverings that no longer cover the nose and mouth.
- Coverings that have stretched out or damaged ties or straps.
- Coverings that cannot stay on the face.
- Covering that have holes or tears in the fabric.

Employees who are unable to wear face coverings due to a disability or personal religious beliefs should investigate options for accommodation under the Americans with Disabilities Act (the "ADA") and/or Title VII of the Civil Rights Act of 1964 ("Title VII") by contacting the Department of Diversity & Civil Rights Compliance (DCRC) at (404) 612-7305. *Managers and supervisors are prohibited from requesting or requiring medical or other documentation directly from an employee who is unable to wear a face covering due to a medical or other health condition that prevents such usage.*

For purposes of this procedure only, the workplace consists of all Fulton County owned or leased enclosed buildings, including loading docks, stairwells, parking garages; all outdoor property of any Fulton County owned or leased enclosed buildings; and any Fulton County owned, leased or operated motorized vehicles or motorized equipment. Security checkpoints may require the lowering of face coverings to verify identification and/or for temperature checks.

## **V. Disciplinary Action**

Appointing Authorities, department heads, managers and supervisors play a crucial role in protecting the health, safety, and well-being of employees during the public health emergency related to COVID-19. Appointing Authorities, department heads, managers and supervisors should address employees who fail to meet safety expectations as set forth in Fulton County's Reopening Guidance and/or other standards and policies promptly and appropriately.

Employees who violate the provisions of this Policy and Procedure and/or the other safety protocols and standards issued by Fulton County to address the COVID-19. These policies do not create a contract of employment. Employment for non-classified employees remains "at will".

pandemic shall be disciplined in accordance with the guidelines set forth in Fulton County's Discipline for Classified Employees Policy and Procedure (305-16), as follows:

- Failure to wear face coverings when in direct contact with others, to maintain social distancing in the workplace and/or to participate in cleaning/disinfecting protocols including frequent hand washing throughout the day shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 2, B.
- Reporting to work when an employee knows (or ought to know) that he or she is experiencing or exhibiting any of the symptoms associated with COVID-19 shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 2, B.
- Failure to complete COVID-19 testing as directed by Fulton County shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 2, B.
- Failure to report exposure to a person who has tested positive for COVID-19, symptoms of COVID-19 or positive COVID-19 test results or who provide false or misleading statements about their exposure, symptoms or test results shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 7, A.
- Failure to comply with Georgia Department of Public Health Isolation Protocol or the directives of his or her health care provider before returning to work, including, but not limited to, directives regarding the length of time to self-isolate/quarantine and follow-up testing shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 2, B.
- Failure or refusal to report to work at an employee's designated worksite during the pandemic shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 1.
- Failure or refusal to report for a reassignment as approved by the Appointing Authority and County Manager shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 11, A.
- Failure to report to work following an employee's mandated isolation or quarantine period without adequate justification shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 1.
- Action by a manager or supervisor which instructs, causes or requires a direct report or other subordinate employee to disregard, ignore or violate this Policy and Procedure and/or any of the other safety protocols and standards issued

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by Fulton County to address the COVID-19 pandemic shall be a violation of the Discipline for Classified Employees Policy and Procedure, Article 2, B.

The above guidelines are not intended to be exhaustive, and additional reasons or bases for discipline may be applicable. Application of Fulton County's Discipline for Classified Employees Policy and Procedure (305-16) to unclassified employees for violations of this Policy and Procedure shall only extend to the use of the minimum and maximum penalty ranges and shall not require application of other progressive discipline measures, including the implementation of a performance improvement plan.

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