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MEMO TO: All Judicial Branch Employees
FROM: Judicial Branch Administrative Services Division
SUBJECT: COVID-19-related personnel situations

This memo is intended to summarize and clarify the different leave options available to employees during the COVID-19 Pandemic. Employees who have specific questions regarding any of the options listed in this document should contact a human resources professional at HRM or their Divisional HR.

1. JUDICIAL BRANCH LEAVE (aka 5-248 under DAS)

14 day leave provided by the Judicial Branch continues to be available, unless notified otherwise, for those employees who have not exhausted their entitlement. Recently updated guidance allows for leave pursuant to Levels A, B & C to be used intermittently, not to exceed the employees regularly scheduled hours for a pay period, typically 10 days/80 hours (part time employees will be prorated). In addition, spouses who both work for the state are now each eligible for 14 day leave for the purpose of childcare. Based on the increase in available leave options, employees will no longer be granted multiple 14 day periods of Judicial Branch leave with the exception of those who test positive for COVID 19 and can provide documentation of their diagnosis. Employees who exhaust their singular 14 day leave entitlement should explore other available leave listed in this memo and be prepared to provide documentation consistent with applicable policies.

LEVEL A – EMPLOYEE SHALL NOT COME TO WORK

REASON	GUIDANCE
<ul style="list-style-type: none"> • Actually sick with COVID-19 symptoms • Caring for sick family with COVID-19 symptoms 	Remote work, if approved by supervisor AND medically appropriate (People who are too sick to work or who are caring for seriously ill family members should not be expected to work) If remote work is not available employee will be paid for the scheduled, non-worked hours within a

	14-day period
	If the employee's illness or need to care for sick family members continues beyond the 14 calendar days, employee may use earned accruals or choose to go unpaid, provided that sick employees must use their sick leave accruals first. Consistent with policy, once the employee has exhausted sick leave accruals, the employee can use other accruals, take unpaid leave, or apply for additional benefits as provided by Judicial Branch policy or collective bargaining agreement (e.g. advanced/emergency sick bank hours).

LEVEL B – EMPLOYEE SHALL NOT COME TO WORK

REASON	GUIDANCE
<ul style="list-style-type: none"> Employee is returning from a country designated by the CDC as a Level 3 Country Employee has been directed by a medical provider or government official to self-monitor at home due to potential COVID-19 exposure or employee's underlying medical condition¹ 	<p>Remote work, if approved by supervisor</p> <p>If remote work is not available, employee will be paid for the scheduled, non-worked hours within a 14-day period</p>

LEVEL C – EMPLOYEE IS NOT PROHIBITED FROM COMING TO WORK

REASON	GUIDANCE
<ul style="list-style-type: none"> Employee needs to stay at home to care for children or other dependents because school, daycare or eldercare has closed Employee cannot get to work because of transportation disruptions 	<p>Remote work or temporary flexible schedule, if approved by supervisor. Flexible schedule means varying the work hours during the normal work day. Total hours within a work week still equal employee's regular hours</p> <p>Employee will be paid for the scheduled, non-worked hours within a 14-day period.</p> <p>If an employee utilizes the flexible work schedule option for part of their standard work hours during</p>

¹ The Judicial Branch encourages employees deemed high risk by the CDC to contact a human resources professional if they are concerned about returning to the workplace. The Judicial Branch will attempt to work with all high risk employees individually to achieve a mutually beneficial arrangement.

High risk employees directed to return to work, who inform the Judicial Branch that they are concerned about returning to the workplace due to COVID-19 concerns, should discuss the following options with a human resources professional in consultation with the employee's supervisor: The possibility of remote work, alternative work locations, flexing hours, FMLA or the use of discretionary leave. Employees deemed high risk who choose to enter the workplace, should engage in safe workplace practices: maintaining social distancing whenever possible, wearing a face covering when social distancing is not possible, washing their hands often and cleaning and disinfecting their work station often. These procedures are subject to ongoing review and may be repealed or adjusted at any time based on the needs of the Judicial Branch and the changing circumstances of the COVID-19 Pandemic.

	the 14 day period, paid leave will be provided for the balance of hours scheduled to work
	If the employee's inability to come to work because of COVID-19 disruptions continues beyond 14 days, the employee can apply for paid leave under the Emergency Family & Medical Leave Expansion Act. Per policy, if the employee has exhausted his/her FMLA entitlement he/she has the choice of using available earned accruals, excluding sick leave, or unpaid leave.

LEVEL D - EMPLOYEE IS NOT PROHIBITED FROM COMING TO WORK

REASON	GUIDANCE
<ul style="list-style-type: none"> • Employee is returning from a Level 2 country or has engaged in inter-state travel within the United States • Employee who is domiciled with or had contact with a person who has been directed by a medical provider or government official to self-monitor at home • Employee had contact with someone who had contact with a person who has been directed by a medical provider or government official to self-monitor at home • Employee has concerns about exposure through contact with persons in public settings, including the workplace 	Come to work as usual
	Remote work if approved by supervisor
	Employee may request to use accruals to take time away from work consistent with standard policies
	Consistent with the Governor's directives regarding social distancing, supervisors may consider whether granting a temporary flexible schedule is possible in light of the agency's overall operational needs and existing resources

2. FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

The Families First Coronavirus Response Act (FFCRA) was signed into law on March 18, 2020, and provides additional Emergency Paid Sick Leave and Emergency Paid Family and Medical Leave to eligible employees. Leaves under the FFCRA are available, if approved, beginning April 1, 2020 and remain in effect through December 31, 2020. The DOL poster can be viewed by clicking on the link below.

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

There are two separate parts of the FFCRA, they are explained as follows:

1. Emergency Paid Sick Leave Act (EPSLA)
2. Emergency Family & Medical Leave Expansion Act (EFMLEA)

Emergency Paid Sick Leave Act (EPSLA) Chart #1

Eligibility	First day of employment
Qualification Reasons	<p>If employee is unable to work(or unable to remote work) due to a need for leave for the following:</p> <ol style="list-style-type: none"> 1. Being subject to a Federal, State or local quarantine or isolation order related to COVID-19; 2. Has been advised by a health care provider to self-quarantine related to COVID-19 3. Experiencing COVID-19 symptoms and is seeking a medical diagnosis; 4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); 5. Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or 6. Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury
Duration of Leave	2 weeks (an employee’s FTE normally scheduled hours, up to 80) Part Time pro-rated
Compensation	<p><u>If employee is on leave for the following reasons:</u></p> <ol style="list-style-type: none"> 1. Being subject to a Federal, State or local quarantine or isolation order related to COVID-19; 2. Has been advised by a health care provider to self-quarantine related to COVID-19 3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis <p>A full-time employee is eligible for up to 80 hours of paid time in a 2 week period, based on FTE. This is capped at \$511/day or \$5110 over the 2 week period.</p> <p><i>NOTE: This depends on your daily wage, example if you earn \$25 per hour your daily pay would be \$200/day or \$2000 for the two week period.</i></p> <p><u>If employee is on leave for the following reasons:</u></p> <ol style="list-style-type: none"> 4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); 5. * Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or 6. Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury <p>A full-time employee is eligible for 2/3 their regular pay, up to \$200/day or \$2000 over the 2 week period. The remaining 1/3 is unpaid.</p> <p><i>*Reason 5: Employees may elect to use the 2 weeks of paid EPSLA to cover the first 2 unpaid weeks of EFMLEA. Please see examples at end for further clarification.</i></p>
Impact regular FMLA entitlement	No

Documentation	Employee completes Form FFCRA-HR-1 to request leave and provides supporting documentation that they are unable to work or remote work due to a qualifying reason related to COVID-19.
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	<p>Examples: a copy of the Federal, State or local quarantine or isolation order related to COVID-19 or written documentation by a health care provider advising them to self-quarantine due to concerns related to COVID-19.</p> <p>It is understood that it may be difficult for an employee to provide documentation in the event he or she is experiencing symptoms of COVID-19 and seeking a medical diagnosis, as not everyone is being provided access to testing and some medical facilities are telling patients with less severe symptoms to remain home. In this regard, we advise that you request a written statement from the employee stating the reason for leave in the event an employee is not able to provide documentation as well as advising the employee that we reserve the right to request documentation at a later date.</p>
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Emergency Family & Medical Leave Expansion Act (EFMLEA) CHILD CARE Chart #2

Eligibility	After being employed 30 calendar days
Exemptions	Employees who are considered health care providers and emergency responders during the COVID-19 pandemic may be excluded from EFMLEA.
Duration of Leave	Up to 12 weeks (see Impact on FMLA entitlements)
Qualification Reasons	Employee qualifies if the employee is unable to work (or unable to remote work) due to caring for a child whose school or place of care is closed (or paid child care provider is unavailable) for reasons related to COVID-19. (Reason #5 of EPSLA)
Compensation	<p>Initial 2 weeks (10 days) are unpaid, however an employee may use the two weeks of EPSLA (if still available) or accrued leave during this time period to avoid being unpaid.</p> <p>The remaining 10 weeks of EFMLEA is paid to an employee at 2/3 their regular rate, up to \$200/day and \$10,000 in the twelve-week period. The remaining 1/3 is unpaid.</p> <p>Pay for the remaining 10 weeks is at a rate of 2/3's the employees FTE normally scheduled hours, subject to the monetary caps.</p> <p><i>NOTE: Accruals cannot be used to supplement this time/compensation while on EFMLEA</i></p>
Use of Accruals	Accruals can only be used during the first two weeks of this leave which is unpaid
Impact on regular FMLA entitlements	Yes. These 12 weeks are NOT in addition to regular FMLA. An employee is still only able to use 12 weeks of leave in a 12- month period under Federal FMLA
Documentation	<p>Employee completes Form FFCRA-HR-1 to request leave and provides supporting documentation showing that the child's school or place of care is closed, or paid child care provider is unavailable, due to COVID-19-related reasons</p> <p>Examples: a notice of closure or unavailability from the child's school, place of care, or paid child care provider, including a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to the employee from an employee or official of the school, place of care, or paid child care provider</p>

3. STANDARD FMLA (State & Federal)

Employees with a pre-existing medical condition which may put them at higher risk due to COVID-19 may be eligible for standard FMLA. Employees should contact an HR professional to discuss their potential eligibility.

4. USE OF ACCRUALS

If an employee is scheduled to work, but is unable to do so, they should contact their supervisor to discuss the use of appropriate accruals in accordance with Judicial Branch policy or other available options. This applies to employees scheduled to work remotely and those scheduled to work at a Judicial Branch location.