

Pendleton School District

Leave Information August 1, 2020

post Executive Order 20-29

Leave Scenario's

- 1) **Employee cannot report to work because his/her child's school or daycare is closed due to COVID-19 precautions and the employee must stay home to care for his/her child.**

PSD will determine whether the employee may work from home. If it is determined, an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If working from home is not an option, or if the employee cannot work from home and care for his/her child(ren) at the same time, the employee may submit a written request for paid leave pursuant to the Families First Coronavirus Response Act ("FFCRA"), Oregon Family Leave Act ("OFLA") and Oregon Sick Leave ("OSL").

Paid leave under the FFCRA is only available if no other person will be providing care for the child during the period for which the employee receives paid leave. Additionally, if the child is older than 14, the employee must provide a statement that special circumstances exist requiring the employee to provide care.

If paid leave under the FFCRA is available, the first 80 hours of emergency paid sick leave time off will be paid as follows:

- Two-thirds of the employee's regular rate of pay, up to a cap of \$200.00 per day and \$2,000.00 in the aggregate for FFCRA temporary emergency paid sick time; and
- The employee may choose to supplement the remaining one-third of his/her regular rate of pay with accrued, unused OSL, vacation, PTO, or other paid leave (if available).

If the employee requires additional time off for this reason, he/she may use the remainder of his/her FMLA and OFLA leave for the leave year (12 weeks total). This time off will be paid as follows:

- Two-thirds of the employee's regular rate of pay, up to a cap of \$200.00 per day and \$2,000.00 in the aggregate for FFCRA temporary emergency paid sick time; and
- The employee may choose to supplement the remaining one-third of his/her regular rate of pay with accrued, unused sick leave vacation, or personal leave.

****If the 80 hours of emergency paid sick time and the Expanded Family and Medical Leave (FMLA) run concurrently, employee has a total of 12 weeks of paid leave available if no other FMLA leave used during their qualified FMLA year.**

The employee must return to work when his/her child's school or daycare opens or when the employee's FMLA/OFLA leave is exhausted, whichever occurs first.

2) Employee cannot report to work because he/she is experiencing symptoms of COVID19 and is seeking a medical diagnosis. The condition does not rise to the level of a serious health condition.

If the employee feels well enough to work, and desires to work, **PSD** will determine whether the employee may work from home. If it is determined, an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If the employee does not feel well enough to work, or if working from home is not an option, the employee may submit a written request for paid leave pursuant to the Families First Coronavirus Response Act (“FFCRA”) and Oregon Sick Leave (“OSL”).

Upon approval, the first 80 hours of emergency sick leave time off will be paid at the employee’s regular rate of pay, up to \$511.00 per day and \$5,110.00 in the aggregate. If additional time off is needed, the employee may use his/her accrued, unused sick leave, vacation, or other paid leave (if available).

If the employee is diagnosed with COVID-19, the employee may not return to work until he/she meets the Centers for Disease Control and Prevention’s (“CDC”) Discontinuation of Home Isolation for Persons with COVID-19 guidelines. As of March 16, 2020, the CDC’s non-test-based strategy states:

- At least 3 days (72 hours) have passed since recovery (i.e. no fever without the use of fever reducing medications and improvement of respiratory symptoms); and
- At least 7 days have passed since symptoms first appeared.

The CDC may update its guidance as more information about COVID-19 becomes available. **PSD** will apply the most recent, relevant guidance on a case-by-case basis.

If the employee is not diagnosed with COVID-19, the employee may not return to work until he/she meets the Oregon Health Authority’s (“OHA”) guidelines. As of March 27, 2020, the OHA recommends:

- People should be without fever for 24 hours off of fever reducing medicines like aspirin or acetaminophen before returning to work or school.

The OHA may update its guidance as more information about COVID-19 becomes available. **PSD** will apply the most recent, relevant guidance on a case-by-case basis.

3) Employee cannot report to work because he/she is experiencing symptoms of COVID19 and is seeking a medical diagnosis. The condition appears severe and might possibly rise to the level of a serious health condition.

The employee may submit a written request for paid leave pursuant to the Families First Coronavirus Response Act (“FFCRA”) and Oregon Sick Leave (“OSL”). The written request must contain all information required by the U.S. DOL and IRS. Please see the Required Documentation section of this guidance document for more information.

PSD will also begin the FMLA/OFLA process for potential serious health condition leave.

Upon approval, the first 80 hours of time off will be paid at the employee’s regular rate of pay, up to \$511.00 per day and \$5,110.00 in the aggregate. If additional time off is needed, the employee may use his/her accrued, unused sick leave, vacation, or other paid leave (if available).

If, upon review of the Certification of Health Care Provider form, the condition rises to the level of a serious health condition, the entire period of time off will be designated as FMLA/OFLA serious health condition leave.

If the time off is designated as FMLA/OFLA serious health condition leave, the employee may not return to work until released by his/her health care provider.

If the time off is not designated as FMLA/OFLA serious health condition leave, follow the return to work protocols outlined in Scenario #2 above.

4) Employee chooses to self-quarantine because he/she is experiencing symptoms of COVID-19 but does not seek a medical diagnosis and does not intend to contact his/her health care provider. The symptoms do not rise to the level of a serious health condition.

PSD will determine whether the employee may work from home. If it is determined, an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked. If working from home is not an option, PSD will follow its existing policies for sick leave.

5) Employee cannot report to work because he/she has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

If the employee is not ill, **PSD** will determine whether the employee may work from home. If it is determined, an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If working from home is not an option, or if the employee is ill, the employee may submit a written request for paid leave pursuant to the Families First Coronavirus Response Act

("FFCRA") and Oregon Sick Leave ("OSL"). The written request must contain all information required by the U.S. DOL and IRS.

Upon approval, the first 80 hours of time off will be paid at the employee's regular rate of pay, up to \$511.00 per day and \$5,110.00 in the aggregate. If additional time off is needed, the employee may use his/her accrued, unused sick leave, vacation, or other paid leave (if available).

Follow the return to work protocols outlined in Scenario #2 above.

6) Employee cannot report to work because he/she is caring for someone who has been advised by a health care provider to self-quarantine due to concerns related to COVID19. The condition appears severe and might possibly rise to the level of a serious health condition.

PSD will determine whether the employee may work from home. If it is determined, an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If working from home is not an option, the employee may submit a written request for paid leave pursuant to the Families First Coronavirus Response Act ("FFCRA") and Oregon Sick Leave ("OSL"). The written request must contain all information required by the U.S. DOL and IRS.

PSD will also begin the FMLA/OFLA process for potential care for a family member with a serious health condition leave.

Upon approval, the first 80 hours of time off will be paid as follows:

- Two-thirds of the employee's regular rate of pay, up to a cap of \$200.00 per day and \$2,000.00 in the aggregate for FFCRA temporary emergency paid sick time; and
- The employee may choose to supplement the remaining one-third of his/her regular rate of pay with accrued, unused OSL, vacation, or other paid leave (if available).

If the employee requires additional time off and:

- a) The condition rises to the level of a serious health condition, the employee may use the remainder of his/her FMLA and OFLA leave for the leave year. He/she may use any accrued, unused OSL, vacation, or other paid leave until it is exhausted. The remaining leave time is unpaid.

- b) The condition does not rise to the level of a serious health condition, the school district will follow its existing policies for sick leave. The employee must return to work when his/her need for leave ends.

7) Employee is in a high-risk category with respect to COVID-19 but has not sought the advice of his/her health care provider. Employee desires to stay home until the pandemic ends.

The school district will determine whether the employee may work from home. To the extent an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If working from home is not an option, the employee may submit a written request for time off. Upon approval, the employee may use his/her accrued, unused OSL, vacation, or other paid leave (if available). The remaining time off will be unpaid.

8) Employee lives with a family member who is in a high-risk category with respect to COVID-19. The family member is not ill and does not require the employee's care. However, the employee does not want to come to work because he/she is afraid of contracting COVID-19 and spreading it to his/her family member.

The school district will determine whether the employee may work from home. To the extent an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If working from home is not an option, the employee may submit a written request for time off. Upon approval, the employee may use his/her accrued, unused OSL, vacation, or other paid leave (if available). The remaining time off will be unpaid.

9) Employee suffers from anxiety and the turmoil surrounding the COVID-19 pandemic has negatively impacted his/her mental health condition.

PSD will engage in the ADA interactive process with the employee and determine what reasonable accommodations may be made, if any, to assist the employee in the performance of the essential functions of his/her job. This includes, but is not limited to, determining whether the employee may work from home.

10) Employee does not want to come to work because he/she is afraid of contracting COVID-19. Employee does not show any symptoms of COVID-19, is not in a high-risk category, and has not consulted with his/her health care provider.

PSD will determine whether the employee may work from home. If it is determined, an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If working from home is not an option, the school district will talk to the employee about precautions that have been implemented pursuant to the CDC's guidelines and Governor Brown's Executive Order to keep the workplace safe and healthy. The school district will reiterate how important the employee's role is to local families. Ultimately, the employee must report to work. Failure to do so may result in disciplinary action.

11) Employee shows symptoms of COVID-19 but wants to continue working on-site.

If the employee feels well enough to work, and desires to work, **PSD** will determine whether the employee may work from home. To the extent an employee may work from home, leave is not necessary, and the employee will be paid his/her regular wages for the time worked.

If working from home is not an option, the school district will send the employee home and approve time off pursuant to Oregon Sick Leave ("OSL").

Follow the return to work protocols outlined in Scenario #2 above.

Required Documentation

The U.S. DOL published the following guidance regarding required documentation to support FFCRA leave requests:

What documents do I need to give my employer to get paid sick leave or expanded family and medical leave?

You must provide to your employer documentation in support of your paid sick leave as specified in applicable IRS forms, instructions, and information.

Your employer may also require you to provide additional in support of your expanded family and medical leave taken to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19-related reasons. For example, this may include a notice of closure or unavailability from your child's school, place of care, or 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 you from an employee or official of the school, place of care, or child care provider. Your employer must retain this notice or documentation in support of expanded family and medical leave, including while you may be taking unpaid leave that runs concurrently with paid sick leave if taken for the same reason.

Please also note that all existing certification requirements under the FMLA remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA.

For example, if you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA if required by your employer.

The IRS requires a written request for leave from the employee in which the employee provides:

1. The employee's name;
2. The date or dates for which leave is requested;
3. A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
4. A statement that the employee is unable to work, including by means of telework, for such reason.

Employees will be asked to include in their written leave requests:

1. A statement confirming that the employee, or someone with whom they live, is in a high-risk category;
2. The name of the governmental entity ordering quarantine or the name of the health care professional advising self-quarantine; and

3. If the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee.

Employees may be held accountable if they provide false information.