

PERSONNEL MANAGEMENT

EMPLOYMENT LEGAL COMPLIANCE

It is Blaine County's policy to comply with all applicable federal, state, and local laws. This includes, but is not limited to: the Americans with Disabilities Act (ADA), the Genetic Information Nondiscrimination Act (GINA), the Age Discrimination in Employment Act (ADEA), the Consolidated Omnibus Budget Reconciliation Act (COBRA), the Equal Pay Act (EPA), the Fair Credit Reporting Act (FCRA), the Fair Labor Standards Act (FLSA), the Family and Medical Leave Act (FMLA), the Health Insurance Portability and Accountability Act (HIPAA), the Idaho Garnishment Law, the Idaho Wage Payment Law, the Idaho Public Records Law, the Immigration Reform and Control Act (IRCA), the Pregnancy Discrimination Act (PDA), Title VII of the Civil Rights Act, the Uniformed Services Employment and Reemployment Rights Act (USERRA), and the Idaho Workers' Compensation Law.

COVID-19 LEAVE POLICY

The Blaine County Board of Commissioners declared the majority of County facilities closed to the public effective Tuesday, March 17, 2020, due to the COVID-19 pandemic and worsening local outbreak. Blaine County facilities slowly reopened in May of 2020. The purpose of this policy is to comply with the Families First Coronavirus Response Act and to assist employees affected by the COVID-19 outbreak with job-protected leave and pay, where applicable. The Board of County Commissioners approved the initial policy on May 12, 2020, and was effective through December 31, 2020. **The policy was then extended through July 31, 2021.**

Effective January 4, 2021, the Board of County Commissioners is re-instituting the job-protection leave and pay as was originally established by this policy.

- Eligible employees may request up to 80 hours of COVID-19 Emergency Paid Sick Leave, regardless of any prior use of the sick leave during 2020 **or 2021**. There are no changes to the leave request or approval process.
- Employees who did not use any COVID-19 Emergency Paid Sick Leave will not be able to combine any unused COVID-19 Emergency Paid Sick Leave with the allocation of up to 80 hours available during calendar year **2022**.
- The Extended Family Medical Leave Act timeline will not start over with this policy extension. There are no changes to the leave request or approval process.

The Blaine County existing FMLA leave policy still applies to all other FMLA-qualifying reasons for leave outside of this policy.

For the purposes of this policy, the following definitions apply:

"Child" means a biological, adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is:

- Under 18 years of age;
- 18 or older and incapable of self-care because of a mental or physical disability.

"Childcare provider" means a provider who receives compensation for providing childcare services on a regular basis, including:

- A center-based childcare provider;
- A group home childcare provider;
- A family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence);
- Other licensed provider of childcare services for compensation;
- A childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece or nephew of such provider, at the direction of the parent.

“Individual” means an immediate family member, roommate or similar person with whom an employee has a relationship that creates an expectation that the employee would care for the person if he or she self-quarantined or was quarantined. Additionally, the individual being cared for must:

- Be subject to a federal, state, or local quarantine or isolation order, or
- Have been advised by a health care provider to self-quarantine based on a belief that he or she has COVID-19, may have COVID-19 or is particularly vulnerable to COVID-19.

“School” means an elementary or secondary school.

EMERGENCY PAID SICK LEAVE

The Families First Coronavirus Response Act includes Emergency Paid Sick Leave. This leave requires that employers provide employees with paid sick leave if they are unable to work or telework for additional reasons associated with the COVID-19 pandemic.

ELIGIBILITY

All current full- and part-time employees are eligible for Emergency Paid Sick Leave, who are scheduled but unable to work (or telework) due to one of the following reasons:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider, or in accordance with the Blaine County COVID-19 Safe Work Practices and the CDC Guidelines, to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee has received the COVID-19 vaccine and is experiencing side effects resulting in their inability to report to work.
5. The employee is caring for an individual who is subject to either number 1 or 2 above.
6. The employee is caring for his or her child if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions.
7. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Furloughed employees are not eligible as there is no work available from which to take leave.

AMOUNT OF EMERGENCY PAID SICK LEAVE

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. Eligible part-time employees are entitled to the number of hours worked, on average, over a two-week period.

For employees with varying hours, one of two methods for computing the numbers of hours paid will be used:

- If the employee has worked six (6) months or more, the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type.
- If the employee has worked less than six (6) months, the expected number of hours to be scheduled per day at the time of hire.

INCREMENTS AND INTERMITTENT USE OF LEAVE

When working from home, employees may take Emergency Paid Sick Leave intermittently and leave used should be rounded to the nearest one-quarter (0.25) of an hour.

For those not teleworking and currently working onsite, an employee may only take intermittent leave for Eligibility reason 5 above, to care for his or her child when the school or place of care is closed, or the caregiver is unavailable due to COVID-19-related reasons. Per the regulations, as all other reasons for Emergency Paid Sick Leave could potentially expose an employee or others in the workplace to the virus, employees must either use the full amount of Emergency Paid Sick Leave or use it in full-day increments until the reason for leave is over and it is safe for the employee to return to work.

RATE OF PAY

Emergency Paid Sick Leave will be paid at the employee's regular rate of pay for leave taken for Eligibility reasons 1-3 above. Employees taking leave for Eligibility reasons 4-6 will be compensated at two-thirds (2/3) their regular rate of pay. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-3 above.
- \$200 per day and \$2,000 in total for leave taken for reasons 4-7 above.

INTERACTION WITH OTHER PAID LEAVE

Employees on Expanded FMLA leave under this policy may use Emergency Paid Sick Leave concurrently with that leave. Emergency Paid Sick Leave may also be used when an employee is on leave under traditional FMLA for his or her own COVID-19-related serious health condition or to care for a qualified family member with such a condition.

PROCEDURE FOR REQUESTING EMERGENCY PAID SICK LEAVE

Employees must notify their Elected Official or Department Head and the HR Manager of the need and specific reason for leave under this policy. Employees must complete the Blaine County "Request for Emergency Paid Sick Leave" form and submit their Elected Official or Department Head to be signed and submitted to the HR Manager

along with supporting documentation. Documentation supporting the need for leave must be included with the leave request form, such as:

- A copy of the federal, state, or local quarantine or isolation order related to COVID-19 applicable to the employee or the name of the government entity that issued the order.
- Written documentation by a health care provider advising the employee to self-quarantine due to concerns related to COVID-19 or the name of the provider who advised the employee.
- The name and relation of the individual the employee is taking leave to care for who is subject to a quarantine or isolation order or is advised to self-quarantine.
- The name and age of the child or children being cared for; the name of the school, place of care, or childcare provider that closed or became unavailable; and a statement that no other suitable person is available to care for the child during the period of requested leave.

Once Emergency Paid Sick Leave has begun, the employee and his or her Elected Official and Department Head must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive Emergency Paid Sick Leave.

CARRYOVER

Any unused Emergency Paid Sick Leave will not carry over to the next year or be paid out to employees.

JOB PROTECTIONS

No employee utilizing Emergency Paid Sick Leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave.

RECORD KEEPING

All records related to Emergency Paid Sick Leave must be retained for four years.

EXPANDED FAMILY AND MEDICAL LEAVE (EXPANDED FMLA)

The Expanded FMLA attempts to balance an employee's need for time off for family and medical reasons associated with the COVID-19 pandemic and the employer's need for a stable work force.

ELIGIBILITY

All current employees who have been employed with Blaine County for at least 30 days and are actively scheduled for work are eligible for leave under this policy.

REASON FOR LEAVE

Eligible employees who are unable to work (or telework) due to a need to care for their child when a school or place of care has been closed, or when the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19.

DURATION OF LEAVE

Employees will have up to 12 weeks of leave to use for the above-stated purposes. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

INCREMENTS & INTERMITTENT USE OF LEAVE

Employees may take Expanded FMLA leave intermittently and leave used should be rounded to the nearest one-quarter (0.25) of an hour.

COMPENSATION

Leave will be unpaid for the first 10 days; however, employees may use accrued paid vacation, comp time, or holiday time during this leave. Employees may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as further explained below.

After the first 10 days, leave will be paid at two-thirds (2/3) of the employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day and \$10,000 in total, or \$12,000 in total if using Emergency Paid Sick Leave for the first 10 days. Any unused portion of this pay will not carry over to the next year.

Employees may also supplement the two-thirds (2/3) pay with accrued vacation, comp time, or holiday time during this leave, not to exceed 100% of their regular pay. Employees may not use their sick time to supplement the two-thirds (2/3) pay during this leave.

EMPLOYEE STATUS AND BENEFITS DURING LEAVE

While an employee is on leave, Blaine County will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must continue to make this payment per instructions from the Payroll Department.

PROCEDURE FOR REQUESTING LEAVE

Any employee requesting Expanded FMLA leave must provide written notice of the need for leave to the HR Department as soon as practicable. Employee must complete the Blaine County "Request for Expanded FMLA Leave" form and submit it to their Elected Official or Department Head to be signed and submitted to the HR Manager. The form must include the following information:

- The name(s) and age(s) of child or children being cared for;
- The name(s) of the school, place of care, or childcare provider that closed or became unavailable due to COVID-19 reasons;
- A statement representing that no other suitable person is available to care for the child or children during the period of requested leave. For children over the age of 14, a statement indicating the special circumstances that require the employee to provide care during daylight hours.

On a basis that does not discriminate against employees on FMLA leave, Blaine County may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

RECORD KEEPING

All records related to Expanded FMLA must be retained for four years.

FAMILIES FIRST CORONAVIRUS RESPONSE ACT EXCLUSIONS

First responders may be excluded from the Expanded FMLA and Emergency Paid Sick Leave provided by this Act in order to preserve staffing of emergency response agencies upon determination by the Board of County Commissioners.