



HUMAN RESOURCES DEPARTMENT

FORT BEND COUNTY, TEXAS

Kathy Novosad
Interim Director of Human Resources

To: Judge KP George
Commissioner Vincent Morales
Commissioner Grady Prestage
Commissioner Andy Meyers
Commissioner Ken DeMerchant

From: Kim Dzierzanowski
Human Resources Generalist

Date: August 10, 2021

Subject: Revisions to Employee Information Manual Section 709, Sick Leave
Provisions for Paid COVID Emergency Leave

Human Resources is submitting recommended revisions to Section 709, Sick Leave, of the Employee Information Manual. Please scroll to Section 709.11 to view the revisions, which will provide reinstatement of the paid leave for certain COVID related absences that were previously covered by the Families First Coronavirus Response Act, and the Paid COVID Emergency leave.

We recommend reinstatement of the COVID Emergency Paid Leave due to the recent spike in COVID-19 cases and the evidence that even fully vaccinated individuals can contract and spread the infection. Providing leave enables us to encourage or require that employees stay out of the workplace when necessary.

Reinstatement of the leave will be effective from August 10, 2021, and continuing until rescinded by Commissioners Court.

If you have questions, please contact Kathy Novosad at 281-341-8624, or me at 281-341-8616.

709 – SICK LEAVE

Section 709.01 Policy and Accrual

All full-time employees, as defined in Policy 401 Categories of Employment, will accrue sick leave at the rate of 2.47 hours per pay period. Temporary and part-time employees do not accrue sick leave. Use of accrued sick leave is subject to the approval of an employee's supervisor, elected official or department head.

There is no limit to the amount of sick leave full-time employees may accrue. However, any payment of accrued sick leave upon retirement is subject to the provisions of this policy.

Section 709.02 Utilization of Sick Leave

Sick leave is to be used for the illness or injury of an employee, employee's spouse, employee's dependent or employee's parent, as defined in §825.113 of the Family and Medical Leave Act (FMLA, see Section 704.03 of this manual). Sick leave may also be used to visit a physician, dentist or other health care provider, when the visit cannot reasonably be scheduled outside working hours. Sick leave is not counted as time worked under the Fair Labor Standards Act. (FLSA).

A health care provider's verification may be required for sick leave at the discretion of the elected official or department head. Pay for sick days may be denied if an employee, upon request, fails to provide a satisfactory verification. In addition, failure to provide satisfactory verification upon request may affect an employee's eligibility for pay out of sick leave at retirement as provided in Section 709.08 below, and/or their ability to participate in the Shared Sick Leave Pool as provided in Section 712.

Section 709.03 Wellness Days for Stress Reduction and Self-Care

Fort Bend County encourages all employees to maintain a healthy lifestyle and attend to both physical and mental well-being. A department head or elected official may authorize an employee to use sick leave for an occasional wellness day to promote stress-reduction and self-care if circumstances indicate the employee would benefit from time away from work. Sick leave used for this purpose would typically be one day annually, but may be more in extenuating circumstances. Approval of such leave is at the sole discretion of the department head or elected official.

No special notation need be made on the employee's time record other than recording the time off as sick leave. Use of accrued sick leave for this purpose should not be adjacent to other time off, such as a holiday or vacation leave.

Section 709.04 Workers Compensation

Employees receiving workers compensation for loss of work due to an accident or injury received while at work may not use accrued leave for the absences.

Section 709.05 Actual Time Basis

Sick leave must be taken on an actual-time basis. Employees may not borrow against future accruals nor use more sick leave than accrued.

Section 709.06 Accrued Time

Employees who have exhausted their accumulated sick leave must then use their compensatory time, vacation time, deferred time and deferred holidays for absences related to an illness or injury as stated in Section 709.02 above. Once an employee has exhausted all accumulated time, they may apply to use hours from the Shared Sick Leave Pool (see Section 712), if the employee is a member of the Pool. When all leave is exhausted, additional time off without pay may be granted subject to the provisions of the FMLA and/or approval of a Leave of

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Absence (see Section 706).

Section 709.07 Forfeiture of Sick Leave

An employee who ends employment with the County for any reason shall forfeit all unused sick leave except in the following circumstances:¹

1. A portion of an employee's unused sick leave balance may be paid out to the employee when the employee retires from Fort Bend County as provided in Section 709.08
2. A person ending employment with the County for any reason may contribute up to 80 hours of unused sick leave to the County's Shared Sick Leave Pool. Please see Section 712 for further explanation.

Section 709.08 Deceased Employee

The estate of a deceased employee is not entitled to payment for unused sick leave acquired by that employee. Any such unused sick leave will be forfeited.

Section 709.09 Payout of Sick Leave at Retirement

Subject to the terms of Section 709.09 below, employees who retire from Fort Bend County may be eligible to receive a payment for up to ½ of their accrued sick leave balance, or \$5,000, which ever is less, only if certain conditions, as detailed below, are met:

1. The employee meets the retirement eligibility requirements as set forth by Section 510 of this manual; and
2. The employee has ended employment with Fort Bend County for purposes of retirement; and
3. The employee has a current, unused sick leave balance; and
4. The employee has not had any unexcused absences, voluntary leave of absence, leave without pay or disciplinary suspensions in the 12 months preceding the employee's retirement date.

The amount of a retiree's sick leave payout shall be calculated by multiplying ½ of the employee's accrued sick leave hours by the employee's base hourly wage in effect at the time of retirement. Any certification pay, bonuses, overtime, or other supplemental pay shall not be included in the calculation. If the total of this calculation is less than \$5,000, the person shall receive the calculated amount. If the total of this calculation is greater than \$5,000, the employee shall receive \$5,000. The payout will be made in the pay period following the employee's last pay period as an employee and shall be subject to all taxes and withholding as applicable at the time of payout.

Prior to retirement, an employee may choose to donate up to 80 hours of accrued sick leave to the Shared Sick Leave Pool as defined in Section 712. If the employee chooses to do so, the donation will be made after the above calculation of sick leave is complete, and the donated amount will be deducted from the remaining sick leave balance.

Section 709.10 COVID-19 Emergency Paid Sick Leave

COVID-19 Emergency Paid Sick Leave is authorized under the Families First Coronavirus Response Act. This leave is effective beginning April 1, 2020 through December 31, 2020, unless terminated sooner in accordance with law.

Fort Bend County employees, both full time and part time, may be entitled to two weeks of paid sick time for certain reasons related to the COVID-19 pandemic. Unlike traditional county earned vacation and sick leave, there is no length of service or accrual requirement. Employees are eligible for use of COVID-19 Emergency Paid Sick Leave immediately upon hire. Full-time employees are entitled to 80 hours of Section 709.10 paid sick time. Part-time employees are

¹ Effective January 1, 2009

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entitled to leave under this Section in an amount equal to the average number of hours they work in a two-week period. Any eligible, unused leave available under this Section does not carry after December 31, 2020.

County employees who work as health care providers and first responders, as defined by the Department of Labor for purposes of the Families First Coronavirus Response Act, may be excluded from COVID-19 Emergency Paid Sick Leave eligibility at the discretion of the Department Head or Elected Official.

An employee is eligible when they are unable to work (or telework) due to a need for leave because the employee:

1. Is 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 due to concerns related to COVID-19;
3. Is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. Is caring for an individual who is subject to an order or advisement as described in numbers 1 and 2;
5. Is caring for a son or daughter (as defined by the FMLA) if, due to COVID-19 precautions, the child's school or place of care has been closed or the child care provider of such child is unavailable; or
6. Is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services

If the employee is able to telework, then there is not a need to use federal leave under this Section. Use of COVID-19 Emergency Paid Sick Leave, including a determination that an employee is unable to perform their assigned duties shall be determined by the Department Head or Elected Official. Reasons that an individual may not be able to work remotely include, but are not limited to:

- Job duties are not conducive for remote working;
- No access to laptop, home internet, etc.;
- The employee is sick or caring for a sick family member; and/or
- Child care duties require full attention of employee during working hours

Employees working remotely should do so only under a work plan created by their supervisor. An employee may be reassigned to other duties to facilitate working remotely, and if so, the employee cannot refuse the reassignment in order to take COVID-19 Emergency Paid Sick Leave.

COVID-19 Emergency Paid Sick Leave will be paid in accordance with the reason for the leave:

Reason 1-3	Paid the lesser of their regular rate of pay times the number of hours of leave taken or \$511 per day, and not to exceed 80 hours of leave or \$5,110 in total for full time employees. For part-time employees, the leave is not to exceed the average number of hours worked in a two week period.
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Reason 4-6	Paid the lesser of their regular rate of pay times the number of hours of leave taken or \$200 per day, and not to exceed 80 hours or \$2,000 in total for full time employees. For part-time employees, the leave is not to exceed the average number of hours worked in a two week period.
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Section 709.11

COVID Emergency
Paid Leave

The Families First Coronavirus Response Act, and therefore the provisions of Section 709.10 above, expired effective December 31, 2020.

However, to ensure the continued health and safety of employees, Fort Bend County shall provide paid leave for certain COVID-19 related leave reasons, as detailed in this section. The paid leave, hereafter referred to as COVID Emergency Leave, will be in effect for leave taken January 9, 2021 through April 30, 2021, unless terminated sooner or extended by future action of Commissioners Court.

Effective August 10, 2021, and continuing until rescinded by Commissioners Court, Fort Bend County shall reinstate the COVID Emergency Paid Leave as detailed in this section.

Fort Bend County employees, both full time and part time, may be eligible for two weeks of paid COVID Emergency Leave for certain reasons related to the COVID-19 pandemic. Unlike traditional County earned vacation and sick leave, there is no length of service or accrual requirement. Employees are eligible for use of paid COVID Emergency Leave immediately upon hire. Full-time employees are eligible for a maximum of 80 hours of paid COVID Emergency Leave. Part-time employees are eligible for leave under this Section in a maximum amount equal to the average number of hours they work in a two-week period. If more leave is needed, employees shall use accrued leave, or leave without pay if accrued leave is exhausted.

COVID Emergency Leave shall be paid at the employee's normal hourly rate, and shall only be used for qualifying reasons as listed below. Any eligible, unused leave available under this Section does not carry after April 30, 2021 and will not be paid out at separation of employment. Employees who previously used paid leave in accordance with the Families First Coronavirus Response Act will still be eligible for up to 80 hours of COVID Emergency Leave for qualifying reasons.

An employee is eligible for COVID Emergency Leave when they are unable to work (or telework) due to a need for leave because the employee:

1. Is 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 due to concerns related to COVID-19;
3. Is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. Is caring for a son or daughter (as defined by the Family and Medical Leave Act), who is subject to an order or advisement as described in numbers 1 and 2.

Documentation verifying the need for leave may be required.

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If the employee is able to telework, then there is not a need to use paid COVID Emergency Leave. Use of paid COVID Emergency Leave, including a determination that an employee is unable to perform their assigned duties, shall be determined by the Department Head or Elected Official. Reasons that an individual may not be able to work remotely include, but are not limited to:

- Job duties are not conducive for remote working;
- No access to laptop, home internet, etc.;
- The employee is sick or caring for a sick family member; and/or
- Child care duties require full attention of employee during working hours

Employees working remotely should do so only under a work plan created by their supervisor. An employee may be reassigned to other duties to facilitate working remotely, and if so, the employee cannot refuse the reassignment in order to take COVID Emergency Leave.

Policy Approved and Adopted By:
Fort Bend County Commissioners Court
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