

## Andover Public School Staff

### Leaves of Absence

---

#### **I. FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)**

From April 1, 2020 to December 31, 2020, employees who are not health care providers or emergency providers (“Eligible employees”) are entitled to two types benefits under the Families First Coronavirus Response Act (“FFCRA”) - Emergency Paid Sick Leave and Emergency Family and Medical Leave. These benefits are in addition to the benefits the District already provides to its employees. This document describes the benefits to which eligible employees are entitled and explains how eligible employees may obtain these benefits.

If the employee’s position is designated a health care provider or an emergency responder position, the employee is exempted from coverage. Employees will be notified of this designation. As this fluid situation evolves, the District may, based on changing circumstances and operational needs, designate additional positions as health care providers or emergency responders exempted from coverage.

#### **A. Emergency Paid Sick Leave Act**

##### **Eligibility**

Employees who are not designated as a health care provider or emergency responder are eligible for Emergency Paid Sick Leave in addition to the sick leave benefits the District already provides its employees.

##### **Purposes for Emergency Paid Sick Leave and Leave Entitlement**

Eligible employees who are unable to work or telework/remote work for any of the following qualifying purposes may be entitled to paid sick leave not to exceed two (2) weeks of their regularly scheduled hours or eighty (80) hours, whichever is less.

- Purpose 1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- Purpose 2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- Purpose 3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
  - a. An employee is experiencing symptoms of COVID-19 if they experience a (i) fever; (ii) dry cough; (iii) shortness of breath; or (iv) any other COVID-19 symptoms identified by the U.S. Centers for Disease Control and Prevention.
  - b. The time an employee is seeking a medical diagnosis is limited to time an employee is unable to work because the employee is taking affirmative steps to

obtain a medical diagnosis, such as making, waiting for, or attending an appointment for a COVID-19 test.

- Purpose 4. The employee is caring for an individual who is subject to an order as described in Purpose 1 above or has been advised to quarantine as described in Purpose 2 above. An “individual” means an employee’s immediate family member, a person who regularly resides in the employee’s home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if the person were quarantined or self-quarantined. An individual does not include a person with whom the employee has no personal relationship.
- Purpose 5. The employee is caring for the employee’s child because the child’s school or place of care has been closed, or the child’s childcare provider is unavailable, due to COVID-19 precautions. A child is defined as an employee’s own child, adopted child, foster child, step child, legal ward, or child for whom the employee stands in loco parentis that is (i) under eighteen (18) years of age or (ii) is over eighteen (18) years of age and has a mental or physical disability and is incapable of self-care because of that disability. An employee is entitled to use leave under this Purpose 5 only if no other suitable person is available to care for the child during the period of leave.
- Purpose 6. The employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

### Pay

Eligible employees are entitled to take up to two (2) weeks of EPSLA leave for the hours that they are regularly scheduled to work (not to exceed eighty (80) hours in a two-week period).

#### Pay Under Purposes 1, 2, or 3

If an eligible employee takes leave for purposes 1, 2, or 3 above, the eligible employee will receive the employee’s regular rate of pay for the number of hours that the employee would otherwise normally be scheduled to work or the State minimum wage, capped at \$511 per day and a total of \$5,110. Eligible employees may not use accrued leave to supplement the difference between their regular rate of pay and their rate of pay under this leave.

#### Pay Under Purposes 4, 5, or 6

If an eligible employee takes leave for purposes 4, 5, or 6 above, the eligible employee will receive 2/3 of the employee’s regular rate of pay for the number of hours that the employee would otherwise normally be scheduled to work or the State minimum wage, capped at \$200 per day and a total of \$2,000. Eligible employees may not use accrued leave to supplement the difference between their regular rate of pay and their rate of pay

under this leave.

**Health Benefits**

An employee’s health insurance coverage remains in effect during the period of leave under Emergency Paid Sick Leave. An employee remains responsible for paying the employee’s share of the premiums for such insurance during the period of leave.

**Duration**

Unless extended by law, the Emergency Paid Sick Leave benefits expire on December 31, 2020.

**B. Emergency Family and Medical Leave Expansion Act**

**Eligibility**

Employees who have been employed by the District for at least thirty (30) calendar days immediately prior to the day the leave would begin and who have not already exhausted their FMLA leave entitlement may be eligible for leave under the Emergency Family and Medical Leave Expansion Act (EFMLEA). (Employees who are designated health care providers or emergency responders are not eligible for leave under the EFMLEA.)

**Purpose for Emergency Family and Medical Leave and Leave Entitlement**

Eligible employees can take up to twelve (12) weeks of job-protected leave when they are unable to work or telework (remote work) because they are caring for their child when the child’s school or place of care has been closed, or the child’s childcare provider is unavailable due to COVID-19 precautions. An employee has a need to take EFMLEA leave only if no other suitable person is available to care for the child during the period of leave. A child is defined as an employee’s own child, adopted child, foster child, step child, legal ward, or child for whom the employee stands in loco parentis who is under eighteen years of age or is over eighteen years of age and has a mental or physical disability and is incapable of self-care because of that disability.

Employees may take a total of twelve workweeks for FMLA or EFMLEA during a twelve-month period. The District uses a 12-month rolling year looking back to determine the 12-month period. If an employee has taken some, but not all of the twelve workweeks of leave under FMLA during such twelve-month period, the employee who needs to care for a minor child because the child’s school or day care/provider is closed due to COVID-19, is eligible to take the remaining workweeks as EFMLEA leave. However, if the employee has already taken twelve workweeks of FMLA leave during such twelve-month period, the employee is not eligible for any additional leave under FMLA or the EFMLEA.

To apply for this leave, the employee must provide the employer with the following information:

- The name and age of the child
- The name of the school or child care provider that has become unavailable because of COVID-19
- And a statement that no other suitable adult is available to care for the child.

**Pay**

The first ten days of EFMLEA are unpaid. However, an eligible employee may use the employee’s accrued vacation leave, personal leave or compensatory time or available leave under the Emergency Paid Sick Leave Act during this initial 10-day period.

The District requires that employees use accrued paid leave (vacation, personal, and compensatory time) concurrent with leave under EFMLEA. Once an employee has exhausted all accrued paid leave, the employee will be compensated in accordance with the EFMLEA at a rate of two-thirds (2/3) the employee’s regular rate of pay for the number of hours the employee would otherwise be regularly scheduled to work up to a maximum of \$200 per day and a cap of \$10,000 in the aggregate for the remaining weeks of leave under the EFMLEA.

If an eligible employee’s work hours tend to vary from week to week, the District shall use a number equal to the average number of hours that the employee was regularly scheduled per day over the 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. If the employee did not work over such 6-month period, the District shall use the employee’s reasonable expectation at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

**Health Benefits**

An employee’s health insurance coverage remains in effect during the period of leave under EFMLEA. An employee remains responsible for paying the employee’s share of the premiums for such insurance during the period of leave.

**Duration**

Unless extended by law, the EFMLEA benefits expire on December 31, 2020.

**II. FAMILY AND MEDICAL LEAVE ACT (“FMLA”)**

**Eligibility**

An employee is eligible for FMLA if the employee:

- has worked for the District for at least twelve (12) months; and
- has at least 1,250 hours of service for the District during the twelve (12) month period immediately preceding the leave.

**Purposes for FMLA and Leave Entitlement**

Eligible employees with one or more of the qualifying reasons listed below are entitled to twelve (12) weeks of unpaid, job-protected leave in a twelve (12) month period. The 12-month period is calculated on a rolling year basis. Eligible employees may take FMLA leave for the following reasons:

- (i) the birth of a child and to care for the newborn child within one year of birth;

- (ii) the placement with the employee of a child for adoption or foster care and to care for the newly placed child within one year of placement;
- (iii) to care for the employee’s spouse, child, or parent who has a serious health condition;
- (iv) a serious health condition that makes the employee unable to perform the essential functions of his or her job;
- (v) any qualifying exigency arising out of the fact that the employee’s spouse, son, daughter, or parent is a covered military member on “covered active duty;”

Eligible employees are entitled to twenty-six (26) weeks of leave in a twelve (12) month period to care for a covered servicemember with a serious injury or illness if the eligible employee is the servicemember’s spouse, son, daughter, parent, or next of kin.

An eligible employee may not take FMLA leave on an intermittent or reduced schedule for reasons (i) or (ii). An eligible employee may take FMLA on an intermittent or reduced schedule when medically necessary for reasons (iii) through (v). When both parents work for the District, they are limited to twelve weeks in the aggregate for the birth of a child, the placement with the employee of a child for adoption or foster care, and the care of a parent with a serious health condition.

When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the District's operations.

FMLA is unpaid leave. However, while on FMLA leave, employees are required to use accrued paid leave concurrently to cover the FMLA leave period. Except as otherwise provided in the applicable collective bargaining agreement, accrued sick leave may only be used for recovery from childbirth under reason (i) and because of the employee’s serious health condition under reason (iv).

### **III. LEAVE PROVIDED BY COLLECTIVE BARGAINING AGREEMENTS**

- A. Contractual Leave With Pay**  
Consult the applicable collective bargaining agreement for specific information on contractual leave with pay.
- B. Contractual Leave Without Pay**  
Consult the applicable collective bargaining agreement for specific information on contractual leave without pay.

### **IV. LEAVES PROVIDED IN INDIVIDUAL EMPLOYMENT CONTRACTS**

Consult applicable individual employment contracts for other available leaves.

## **V. LEAVES AS REASONABLE ACCOMMODATIONS**

As required by state and federal law, the Andover Public Schools provides reasonable accommodations for employees with disabilities. Employees requesting reasonable accommodations need to provide information to the District so that the District can determine whether the employee has a disability under the law and what, if any, reasonable accommodations would enable the employee to perform the essential functions of the employee's job. An employee should understand that if the employee is entitled to a reasonable accommodation under the law, the District may select from among various alternative reasonable accommodations and may provide a reasonable accommodation that was not proposed by the employee's health care provider or preferred by the employee. The law does not require an employer to provide accommodations to an employee who does not have a disability who is seeking an accommodation for the purpose of protecting someone else in the employee's family or residence.