

# FMLA LEAVE EXPANSION AND EMERGENCY PAID SICK LEAVE POLICY (CORONAVIRUS)

## CORNISH COLLEGE OF THE ARTS

Developed, Updated & Approved by  
Human Resources & President's Cabinet

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**FMLA Leave Expansion and Emergency Paid Sick Leave Policy (Coronavirus)**  
**REVISED – April 2021**

**Purpose**

The American Rescue Plan Act extends the FMLA and Emergency Paid Sick Leave provisions of the Families First Coronavirus Response Act (FFCRA) that assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. This policy will be in effect from April 1, 2021, until September 30, 2021. Our existing FMLA leave policy still applies to all other reasons for leave outside of this policy.

**Expanded FMLA Leave**

**Employee Eligibility**

All employees who have been employed with Cornish College of the Arts for at least 30 days.

**Reason for Leave**

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

“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-

- (A) under 18 years of age; or
- (B) 18 years of age 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.

“School” means an elementary or secondary school.

**Duration of Leave**

Employees will have up to 12 weeks of leave to use from April 1, 2021, through September 30, 2021, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy.

**Pay During Leave**

Leave will be paid at two-thirds of an 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 \$12,000 in total. Any unused portion of this pay will not carry over.

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

- 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. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

**Employee Status and Benefits During Leave**

While an employee is on leave, Cornish 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 HR department.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

**Procedure for Requesting Leave**

All employees requesting FMLA leave must provide written notice, where possible, of the need for leave to HR as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided. Within five business days after the employee has provided this notice, HR will complete and provide the employee with any Department of Labor (DOL) required notices.

The notice the employee provides should include a brief statement as to the reason for leave, and if possible, the expected duration.

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

**Employee Status After Leave**

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. Cornish may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

Please contact the HR department with any questions.

## Emergency Paid Sick Leave

### Eligibility

All full- and part-time employees unable to work (or telework) due to one of the following reasons for leave:

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 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 is obtaining a COVID-19 vaccination.
5. The employee is recovering from an injury, disability, illness, or condition related to a COVID-19 vaccination.
6. The employee is caring for an individual who is subject to either number 1 or 2 above.
7. 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.
8. 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.

“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-

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

### Amount of Paid Sick Leave

All eligible full-time employees will have up to 80 hours of paid sick leave available to use from April 1, 2021 to September 30, 2021 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 number of hours paid will be used:

- 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. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

### Rate of Pay

Paid emergency sick leave will be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-5 above. Employees taking leave for reasons 6-8 will be compensated at two-thirds their regular rate of pay, or minimum wage, whichever is greater. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-5 above;
- \$200 per day and \$2,000 in total for leave taken for reasons 6-8 above.

**Interaction with Other Paid Leave**

The employee may use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above.

Employees on expanded FMLA leave under this policy may use emergency paid sick leave during the first 10 days of normally unpaid FMLA leave.

**Procedure for Requesting Emergency Paid Sick Leave**

Employees must notify their manager of the need and specific reason for leave under this policy. Verbal notification will be accepted until practicable to provide written notice. Existing leave forms may be used with added notes indicating "Emergency Paid Sick Leave" and qualifying reason 1-8.

Once emergency paid sick leave has begun, the employee and their manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

**Carryover**

Paid emergency sick leave under this policy will not be provided beyond September 30, 2021. Any unused paid sick leave will not carry over or be paid out to employees.

**Job Protections**

No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave.

Please contact the HR department with any questions.