

<b>Policy Title:</b> Leave Policy During Pandemic	<b>Number:</b> 6.5.11	<b>Date of Approval:</b> <del>0510/2021</del> /2020
<b>Other Revisions:</b> 04/15/2020; <del>05/20/2020</del>	<b>Prepared By:</b> Julie van Hoff	

## STATEMENT OF POLICY

On March 4, 2020 the Governor of the State of California proclaimed a State of Emergency as a result of the threat of COVID-19. Further, on March 19, 2020 the Governor issued Executive Order N-33-20 which ordered “all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors”. Order N-33-20 outlines 16 critical infrastructure sectors that are exempt from the shelter in place requirements. Among them is essential government functions.

The San Mateo County Harbor District’s goal is to support staff to the fullest extent possible while the District ensures the safety and security of the harbors and marinas under the District’s jurisdiction. The District is also committed to the continuation of income for District employees where legally possible during this State of Emergency.

The following guidelines are based on information available to date. The changes to the District’s current policies are temporary and will revert back once the State of Emergency is over but not later than December 31, 2020. To the extent there are changes implemented by the State of California, Federal Government or Local Government that impact this policy, those changes will supersede this policy.

So long as this policy remains in effect, it is the District’s intention that it will equally apply to all District employees except as noted otherwise, including employees who are covered by the Memorandum of Understanding (MOU) with Operating Engineers Local Union No. 3 and Teamsters Union Local 856 and unrepresented employees.

### Definition of District Leaves:

- 1) Paid Time Off (PTO)- Policy 6.5.1 and MOUs “PTO can be used for reasons including but not limited to “personal or family business,” “short-term illness,” health or dental appointments, or any other reason deemed appropriate by the Employees. PTO can be used due to emergencies or natural disasters.” Use of PTO generally requires a 14 day notice except for emergencies or illness which requires that employees “notify their supervisor at the earliest possible time of their inability to work” (generally, a three hour notification prior to the start of an employee’s shift or at least a one hour notification has been expected). For purposes of this Policy, the definition of PTO will also pertain to Floating Holidays and Comp time earned, as applicable.

2) Extended Illness Benefit (EIB)- EIB is not to be used for regular or routine medical or dental appointments for self or family unless the employee applies, qualifies and is determined to be eligible for FMLA/CFRA. Individual Employee accounts contain accrued hours designed for severe or long-term illness. The EIB will be used when an Employee is in one of these circumstances:

- Any medical absence from work of one (1) week (50% of the scheduled hours in a pay period) with physician's verification of illness/injury of employee or dependent minor; or
- When employee or dependent minor is admitted to a hospital or has a surgical procedure performed in a hospital or a surgery center and cannot return to work per medical direction or care for dependent minor is required; or
- Qualifies for State Disability; or
- Is eligible for Workers' Compensation benefits

#### **Temporary Changes to above Leave Usage:**

- 1) The District policy and the MOUs permit an employee to use PTO for emergencies and natural disasters. After supervisor approval, ensuring adequate staffing for essential services, effective March 17, 2020 until the State of Emergency has been released or December 31, 2020 (whichever is earlier), employees may use their EIB balances for COVID-19 related issues including but not limited to:
  - a) Staying home to care for dependent children
  - b) To care for a family member as defined by the State of California (spouse, former spouse, child, stepchild, grandchild, parent, stepparent, grandparent, niece, nephew, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother, sister, brother-in-law, or sister-in-law) who falls ill due to the COVID-19 virus
  - c) If an employee has an at-risk family member living with them and they wish to self-quarantine
  - d) Absence due to an employee's illness (not subject to the one-week requirement).

Employees are encouraged to apply for SDI benefits while on leave for COVID-19 related issues. To the extent employees receive SDI, SDI benefits will be integrated with PTO so that the employee receives full pay but no more than 100% of the employee's regular pay.

If EIB will be used for the sickness of the employee or to care for a family member, the requirement to provide a doctor's note for verification of sickness may be waived by the General Manager or designee.

- 2) Pursuant to the Families First Coronavirus Response Act ("FFCRA"), from April 1, 2020 through December 31, 2020, all employees can take up to two weeks (80 hours, or part-time employee's two-week equivalent) of Emergency Paid Sick Leave for the reasons set forth below and pursuant to the terms explained below. Leave

taken as Emergency Paid Sick Leave is in addition to any other accrued leave or time off. Emergency Paid Sick Leave pursuant to the FFCRA must be used prior to December 31, 2020 unless extended by the federal government. Unused leave does not carryover for any employees and unused Emergency Paid Sick Leave pursuant to the FFCRA is not paid out to employees at the time of termination, resignation, retirement, or other separation from employment.

- a) Employees are entitled to Emergency Paid Sick Leave at their regular rate of pay if they are unable to work or telework for one of the following three reasons. Payments for such leave are capped at \$511/Day and \$5,110 in the Aggregate. Employees may choose to integrate EIB, PTO, Holiday Float, and Comp earned up to 100% of their regular rate of pay.
  - 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 related to COVID-19.
  - 3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

The State of California added AB 1867 into law and requires employers to provide Emergency Paid Sick Leave to First Responders by September 19, 2020. The District has complied with this requirement by allowing first responders to participate in this benefit effective April 1, 2020. In addition, AB 1867 provides that First Responders will be eligible to take this leave when the employee is prohibited from working by the employer due to concerns related to the potential transmission of COVID-19. This new eligibility provision will be accessible to employees who are OE3 members and Harbormasters.

- b) Employees are entitled to Emergency Paid Sick Leave at two-thirds of the employee's regular rate of pay if they are unable to work or telework because of one of the following three reasons. Payments for such leave are capped at \$200/Day and \$2,000 in the Aggregate.
  - 1) The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine related to COVID-19.
  - 2) The employee is caring for his or her child whose school or place of care has been closed, or the child-care provider of such child is unavailable, due to COVID-19 related reasons.
  - 3) The employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.
- 3) In addition to the Emergency Paid Sick Leave described above in section 2, pursuant to the FFCRA, from April 1, 2020 through December 31, 2020, employees who have been employed by the District for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded

family and medical leave if the employee is unable to work or telework as a result of needing to care for his or her child whose school or place of care has been closed, or the child-care provider of such child is unavailable, due to COVID-19 related reasons (“Emergency Family and Medical Leave”). The following terms apply to such leave:

- a) The first 10 days of such leave are unpaid. However, the employee may use Emergency Paid Sick Leave, provided such entitlement has not been exhausted, as explained above in section 2(b) during the first 10 days and may also use other forms of available paid leave to offset any otherwise unpaid time. Note: This will be equal to 80 hours for full-time employees.
- b) For the remaining 10 weeks, an employee will continue to be paid 2/3 of his/her regular pay capped at \$200 per day and \$12,000 in the Aggregate.

Emergency Family and Medical Leave is treated like FMLA Leave (See 6.5.6 District Policy on Family Medical Leave) and will reduce the amount of FMLA leave the employee can take for other reasons during the applicable FMLA year.

Employees out on Emergency Family and Medical Leave are generally entitled to reinstatement to their prior position or an equivalent position, with equivalent employment benefits, pay, and other terms and conditions of employment. However, an employee on Emergency Family and Medical Leave is entitled to no greater right to employment or reinstatement than had the employee not taken the leave.

- 4) Policy 6.3.5 allows employees to request payment of accrued PTO by submitting such request to the General Manager at least two weeks prior to check issuance. An employee may request an amount equal to or less than eighty (80) hours. An employee may request a maximum of 160 hours per calendar year.

During the State of Emergency, qualified employees may request payment of up to an additional eighty (80) hours through June 30, 2020. They may request additional payment of up to another eighty (80) hours from the period of July 1, 2020 through the end of the State of Emergency, but not later than December 31, 2020. In order to qualify for this additional PTO payout, an employee is required to have a balance of at least 40 hours in PTO.

#### **Other Considerations:**

- 1) If an employee exhibits symptoms associated with COVID-19, or had known contact with an infected individual, they should immediately contact their supervisor and stay home. If an employee tests positive for COVID-19 they should immediately contact the General Manager or Director of Administrative Services.

If a supervisor observes an employee at work that exhibits symptoms, the supervisor is obligated to send the employee home. At the employee’s discretion, the employee may immediately access EIB leave. Once EIB leave is

exhausted, an employee must use any available PTO, floating holiday leave, and comp time earned.

- 2) In the event that:
  - a.) An employee exhibits COVID-19 symptoms while at work, and
  - b.) The employer sends an employee home, and
  - c.) The employee has exhausted his/her leave, and
  - d.) The District is unable to provide remote work.

The District will ensure that the employee continues to be paid and will be placed on Administrative Leave. An employee should attempt to get tested as soon as possible so that he/she may be cleared to report back to work. Otherwise, symptoms should be absent for three days or as otherwise recommended by the CDC and/or any applicable federal, state or local agencies before returning to work.

- 3) Operations staff have been deemed to be essential employees. Operations staff should take all precautions as outlined by the San Mateo County Health Officer to include use of personal protective equipment (PPE) while cleaning public spaces, social distancing of six feet, frequent hand washing with soap and water for at least 20 seconds (or if not available use hand sanitizer of at least 60% alcohol), and avoid touching the face. All shared surfaces should be sanitized after use by an employee, including but not limited to District vehicles, shared computers, phones, radios and tools.
- 4) If an employee experiences symptoms of the COVID-19 virus, precautions should be taken to minimize the spread to others. The Center for Disease Control recommends that a person with symptoms isolate themselves from the rest of their family and animals while at home. This includes staying in a separate room, using a different bathroom and practicing the precautions as stated in 3 above. See <https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/steps-when-sick.html> for further information.
- 5) Except as discussed above with regard to Emergency Family and Medical Leave pursuant to the FFCRA, FMLA entitlement and eligibility is addressed in 6.5.6 District Policy on Family Medical Leave. FMLA leave is only available to District employees who have worked for the District for at least 12 months and have worked at least 1,250 hours in the 12 months preceding the leave and in most circumstances concern about contracting COVID-19 would not be considered a serious health condition entitling eligible employees to FMLA leave. However, during this State of Emergency, District employees may be authorized to take unpaid leave to self-quarantine if their supervisor confirms adequate coverage for essential services to be maintained and with the approval of the General Manager. While the District will make efforts to return the employee to his or her position at the conclusion of such leave, the employee will have no greater right to employment than if he or she had remained actively at work.

6) If an OE3 member or Harbormaster has used all 80 hours of Emergency Paid Sick Leave to which they are entitled by law and one of the following occurs, the District in its sole discretion will add up to 80 additional hours to the Emergency Paid Sick Leave bank. Use of such additional hoursThis will follow the same limits and rules as provided above.

- a. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- b. The employee has been advised by a health care provider to self-quarantine related to COVID-19.
- c. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- d. The employee is prohibited from working by the employer due to concerns related to the potential transmission of COVID-19.

The District may require that an employee provide supporting documentation to establish eligibility for additional Emergency Paid Sick Leave pursuant to subparagraphs a – c, above.

Any Emergency Paid Sick Leave hours provided to an employee under this paragraph 6 are in addition to and in excess of any leave to which an employee may otherwise be entitled by law or pursuant to a collective bargaining agreement.

5) The hours remaining in the Emergency Paid Sick Leave bank on December 31, 2020 may be carried forward regardless of whether or not ~~extended~~required by Federal or State Government until the COVID-19 State of Emergency is lifted. Once lifted, the hours remaining in the Emergency Paid Sick leave bank will expire. In the event that the Federal or State Government requires additional Emergency Paid Sick Leave hours ~~and if legally allowable,~~ theany additional Emergency Paid Sick Leave hours provided to employees under this paragraph 6 shall reduce the District's requirement to add more hours to the extent allowable under applicable law.

#### **Incorporation of New Mandates:**

Any relevant mandates will supersede this policy and be disseminated by the General Manager.