Board of Supervisors Memorandum

April 2, 2020

Modifications to Attendance Policy During Influenza or Other Viral Pandemic Outbreak

Background

For the Board of Supervisors Special Emergency Meeting scheduled for April 2, 2020, I am asking the Board to update and modify the recently approved Attendance Policy During Influenza or Other Viral Pandemic Outbreak. The recommended changes are as follows:

1. Grant flexibility to provide waivers and other actions that may arise from ever changing conditions associated with the COVID-19 Pandemic.

2. Regardless of any shelter-in-place order from a federal, state or local government there are a number of essential County employees that will be required to remain at work to safeguard the health and safety of the community. These employees are deemed essential. Authority is necessary to initiate a Wellness Check at the beginning of any day or shift so that employee temperatures can be taken and if an employee exhibits an elevated temperature or fever, the employee may be prohibited from working until their body temperature is normal.

   Such readings are appropriate during a pandemic event to prevent the workplace spread of COVID-19

3. A policy is also being amended to add, as a condition of taking County Pandemic Leave, the declaration of a federal, state or local entity requiring isolation that affects an employee's ability to work. In such an event, non-essential employees would be placed on County Pandemic Leave.

Recommendation

I recommend the Board of Supervisors approve these policy modifications to Board of Supervisors Policy D 23.20 Attendance Policy During Influenza or Other Viral Pandemic Outbreak.

Sincerely,

C.H. Huckelberry
County Administrator

CHH/anc – March 31, 2020

c: Jan Lesher, Chief Deputy County Administrator
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer, Health and Community Services
Dr. Bob England, Director, Health Department
Cathy Bohland, Director, Human Resources

PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY

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ATTENDANCE POLICY DURING INFLUENZA OR OTHER VIRAL PANDEMIC OUTBREAK	D 23.20	1 of 4

Background

An influenza or other viral Pandemic refers to a worldwide outbreak of influenza or other viral illness among people when a new strain of the virus emerges that has the ability to infect humans and to spread from person to person. During the early phases of a pandemic influenza or virus, people might not have any natural immunity to the new strain; so the disease would spread rapidly among the population. Pandemics can vary in severity from something that seems simply like a bad flu season to an especially severe influenza or other viral pandemic that could lead to high levels of illness, death, social disruption and economic loss.

Policy

In order to aid in protecting the health and safety of our employees, Pima County has adopted the following temporary attendance procedures specific to employees who exhibit flu-like symptoms as documented by a federal, state or local declaration of an emergency and concurred in by Pima County's Chief Medical Officer. Due to the highly contagious nature of the pandemic influenza or virus and its similarity in symptoms to seasonal flu, anyone displaying flu-like symptoms will be treated the same under this policy. Except where temporarily modified by this policy, all procedures governing paid and unpaid leave remain in effect and are governed by the Pima County Personnel Policies. During pandemic situations, the County Administrator is granted authority to direct Human Resources to grant other unforeseen waivers as the need arises.

It is the policy of the Board of Supervisors that:

A. Employees, volunteers, interns, and contractors exhibiting the following symptoms must NOT come to work. Common symptoms are one or more of the following:

1. Cough
2. Sore throat
3. Runny and stuffy nose
4. Muscle aches
5. Headache
6. Chills
7. Unusual fatigue
8. Nausea, vomiting and diarrhea
9. Fever greater than 38° C or 100.4° F

B. Employees must notify their immediate supervisor or authorized department representative if they are ill. Departments may establish alternate call-in procedures in the case of a pandemic.

C. Employees must stay home and minimize human contact if they are sick with flu-like illness. Employees need to stay out fourteen (14) consecutive days after onset of symptoms, which may be shortened or extended by the County Administrator as advised by the Chief Medical

Officer, dependent upon the type of pandemic.- **DURING A PANDEMIC OUTBREAK AND AT THE DIRECTION OF THE CHIEF MEDICAL OFFICER, THE COUNTY MAY MEASURE EMPLOYEES' BODY TEMPERATURES IN ORDER TO MAINTAIN WORKPLACE SAFETY AND PREVENT COMMUNITY SPREAD. SIMILARLY, THE COUNTY MAY ALSO MEASURE AN APPLICANT'S BODY TEMPERATURE AS PART OF A POST-OFFER, PRE-EMPLOYMENT MEDICAL EXAM. IF AN APPLICANT EXHIBITS SYMPTOMS AS OUTLINED IN SECTION A ABOVE, THE COUNTY MAY DELAY THE START DATE OF THE APPLICANT OR IN CASES WHERE THE APPLICANT IS NEEDED TO START WORK IMMEDIATELY, MAY WITHDRAW THE OFFER OF EMPLOYMENT.**

D. Appointing Authorities, or designees have the responsibility to ensure the workplace is safe, and as a result, have the authority to send home employees who display flu-like symptoms. Based on the above and to avoid further contaminating the work place, an employee must leave work when directed to do so by the Appointing Authority or designee. Failure to do so, to include delayed and resistant departure, may result in disciplinary action up to and including dismissal. In the event there is a disagreement concerning the employee's medical condition, the employee will be permitted to return to work if their health care provider certifies that the employee's condition does not pose a threat to themselves or other employees during a pandemic outbreak.

For the partial day absence due to being sent home, a non-exempt employee must charge some sort of leave for the hours not worked (whether paid or unpaid), while an exempt employee is paid for the full day when sent home from work.

E. Use of leave for a pandemic influenza or viral condition, includes an absence from work when required to be out of the workplace due to the onset of symptoms, as identified in Section C above, a medically compromised condition as identified by the CDC for one's own self or for a family member in the same household, ~~or~~ parents affected by school closures **OR A FEDERAL, STATE OR LOCAL STAY-AT-HOME ORDER**. The leave taken may include the use of accrued sick, accrued compensatory time, accrued annual leave, pandemic outbreak leave and leave of absence without pay. Any associated personnel policies that establish time frame and purposes for use of leave banks are waived for the purposes of flu-like symptoms, to include probationary employees.

For example, an employee on initial probation who has not reached three (3) months of continuous service may use accrued sick leave or who has not reached six (6) months of continuous service may use annual leave. As stated in general policy, probationary time may be adjusted for absences lasting more than eighty (80) hours. Also, a two-week notice is not required for annual leave for this matter, and employees may volunteer to use compensatory time accrued or annual leave once sick leave accruals are exhausted. Use of leave for the purpose of caring for a sick child or eligible family member who is ill with the pandemic influenza or virus may include the use of accrued sick, accrued compensatory time, accrued annual leave and leave of absence without pay.

F. The County provides an additional 80 hours of pandemic outbreak leave to be used one time per pandemic outbreak. Pandemic outbreak leave can be used for the time that the employee is absent from work and required to be out of work due to the onset of symptoms, as identified in Section C above, an employee's own or family household member's compromising underlying medical condition ~~or~~ for employees affected by school closures **OR A FEDERAL, STATE OR LOCAL STAY-AT-HOME ORDER**. Pandemic outbreak leave must also be coded

in the time-keeping system as pandemic outbreak leave. Those employees who have exhausted all leave banks must be placed in a leave of absence without pay status in the best interest of the County or for humanitarian/personal reasons. The employee's consent in such instance is waived.

G. Due to strong recommendations from the Health Department and our healthcare provider, the requirement for a physician's verification for those who are absent for more than three (3) days is waived, unless the department suspects abuse. This will allow doctors, clinics and hospitals to attend to the very ill instead of those who simply need a physician's verification of an illness. This will relieve any overcrowding of medical facilities and further exposure that may occur from a pandemic. It must be noted that pursuant to Federal law, Human Resources must be notified when an absence is for more than three (3) days so that it can be determined if the employee has a serious health condition that falls under the Family and Medical Leave Act (FMLA). During the period of time that an employee is required to be absent from work due to the onset of symptoms as identified in Section C above, the requirement of FMLA paperwork will be waived. However, FMLA paperwork will be required if after the period of time identified in Section C, the employee continues to exhibit symptoms or requires ongoing treatment. In addition, FMLA paperwork will be required for any in-patient care received or if the employee is unable to perform the functions of their position. FMLA is not automatic for the pandemic influenza or virus. A decision will be made on a case-by-case basis by Human Resources FMLA Leave Administration.

H. In the case where an employee's child is healthy and the child's school or day care is closed, the Appointing Authority may approve sick leave, annual leave, the use of compensatory time, pandemic outbreak leave, and/or leave without pay. For instances of school/day care closures, pandemic outbreak leave can be used intermittently, in increments of no less than four (4) hours.

I. The Board of Supervisors may determine from information provided by the Heath Department whether a work site or public facility is infected and if the work site or public facility must be shut down. At that time, the Board of Supervisors may invoke Personnel Policy 8-107.A.2. or may give further direction to the County Administrator. **IN THE EVENT OF A FEDERAL, STATE OR LOCAL DECLARATION THAT AFFECTS AN EMPLOYEE'S ABILITY TO WORK, THE EMPLOYEE IS AUTOMATICALLY PLACED ON PANDEMIC OUTBREAK LEAVE UNTIL THE DECLARATION CEASES. IN THE EVENT THE DECLARATION LASTS LONGER THAN THE AMOUNT OF PANDEMIC OUTBREAK LEAVE AVAILABLE, THE EMPLOYEE MAY TAKE FEDERAL EMERGENCY PAID SICK TIME *IF APPLICABLE*, SICK LEAVE, COMPENSATORY TIME, ANNUAL LEAVE, OR LEAVE WITHOUT PAY.**

J. Except as stated in I above, an employee must have a legitimate reason for not coming to work either via approved vacation or use of compensatory time, due to illness, or based on a leave of absence without pay when granted by the Appointing Authority and approved by the County Administrator, when required.

K. Special attention should be paid to infection control practices. Frequent handwashing, use of sanitizers, covering coughs and sneezes, and regular cleaning of frequently touched surfaces will reduce possible exposure in the workplace.

L. When implementing this policy, Pima County will not discriminate on the basis of race, color, religion, national origin, age, sex, disability, veteran's status, pregnancy, gender identity,

gender expression, or sexual orientation, or results of a genetic test received by the County, when applicable.

Finally, privacy rules apply to information regarding the employee and family members to include the medical condition of the employee and/or family member. The Americans with Disabilities Act (ADA), FMLA and the Health Insurance Portability and Accountability Act (HIPAA) laws protect medical information from being shared without the employee's express and written consent. Also, in addition to FMLA, medical disability and ADA may apply and will be handled on a case-by-case basis. Employees should contact Human Resources/Employment Rights with questions regarding this and other leave policies.

References: Pima County Merit System Rules and Personnel Policies
Americans with Disabilities Act (ADA)
Fair Labor Standards Act (FLSA)
Family and Medical Leave Act (FMLA)
Health Insurance Portability and Accountability Act (HIPPA**A**)
General Duty Clause of the Occupational Safety and Health Act (OSHA) Section 5(a)(1)

Effective Date: 10/20/2009
Revised Date: 03/XX/2020