MEMORANDUM

Date: April 8, 2020

To: The Honorable Chairman and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator

Re: **Temporary Policy – Novel Coronavirus (COVID-19)**

I have attached a draft of the Temporary Board of Supervisors Policy Novel Coronavirus (COVID-19). This policy has been developed specifically for the COVID-19 pandemic and integrates several areas that have already been approved by the Board such as essential employees, telecommuting, temporary assignments and the Federal Families First Coronavirus Response Act.

Items that are new and do not require specific direction immediately relate to a) temporary assignments, b) annual leave accumulation above 240 hours, and, c) masks, will be placed on the next available agenda.

The Items that require Board of Supervisors direction are as follows:

Temporary COVID-19 Premium pay and whether the Board supports payment of this pay for employees who cannot socially distance themselves from the public or others, because of the nature of their employment. I am requesting that any employee who is unable to actively distance themselves from others in the course of performing their work be eligible for said pay and the effective date of this pay policy be the pay period beginning April 12, 2020. I expect this premium pay for COVID-19 will be in effect until the end of this fiscal year, as I do not anticipate stay-at-home Executive Orders to be lifted until June, 2020 at the earliest.

Another area that requires Board direction is in the area of **COVID-19 furlough**. This particular program would be for those non-essential employees who have been unable to work due to their job assignment and who have exhausted their Pandemic Leave, Federal leave and accumulated leave banks. Once their leave banks are exhausted, employees then are placed on a leave without pay status. I am recommending the COVID-19 furlough be effective once those leaves are exhausted. Such an action would then allow the employee to apply for unemployment benefits during the furlough period. As soon as any stay-at-home Order is lifted, the furlough would end and the employee would be called back to work.

I would appreciate your direction regarding these two items at the April 9, 2020 Special Board of Supervisors Meeting.

Attachment

c: Jan Lesher, Chief Deputy County Administrator
Francisco García, MD, MPH, Deputy County Administrator & Chief Medical Officer, Health and Community Services
Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Andrew Flagg, Chief Civil Deputy County Attorney
Cathy Bohland, Director, Human Resources
Julie Castañeda, Clerk of the Board of Supervisors

PIMA COUNTY, ARIZONA
BOARD OF SUPERVISORS POLICY

Subject: TEMPORARY POLICY – NOVEL CORONAVIRUS (COVID-19)	**Policy Number**	**Page**
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Background

A public health emergency was declared by the State of Arizona and the Federal government to address the 2019 novel Coronavirus (COVID-19) pandemic. During the pandemic outbreak and community spread, the County intends to provide necessary and required services to the community, while ensuring the safety of its employees.

Policy

This temporary policy is to outline and implement the newly enacted Federal provisions, as well as provide additional County guidelines and address workplace expectations for employees. It applies to all appointed Departments and Elected Official Departments. The policy is effective immediately and will remain in effect until the end of the declaration of emergency, with concurrence by the Pima County Chief Medical Officer. This policy should be read in conjunction with Board of Supervisors Policy D 23.20, *Attendance During Influenza or Other Viral Pandemic Outbreak*. To the extent this policy conflicts with existing policy, procedures or rules, this policy shall supersede. As this is a fluid situation, this policy is subject to change and will be revised as events change.

I. Reduced Services

In the event that the County is required to provide reduced services, the County has identified what services are essential to provide to the community and will require certain employees to continue working. Examples of required services include, law enforcement and detention positions, public works services and administration functions necessary to support County government.

A. Essential Employees

Appointing Authorities are required to identify all essential employees that are required to work during a reduction in County-wide services. These employees are those that are necessary to ensure required County services are provided during a reduction in necessary services per Federal, State, or local declaration affecting employees' ability to work. Due to the varied and critical nature of work in Departments, Appointing Authorities have the ability to assign employees who perform nonessential functions to perform essential functions and vice versa, as the need for essential work changes.

1. Telecommuting

During the COVID-19 pandemic outbreak, essential employees are required to perform their duties; however, with approval of the Appointing Authority and County Administration, essential employees may be permitted to telecommute. Appointing Authorities may permit essential employees to telecommute following the priority listed below:

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a. Employees who have a compromising medical condition as identified by the CDC;

b. Employees who have a family household member with a compromising medical condition as identified by the CDC;

c. Employees with school-age children affected by a school or day care closure; or,

d. Employees over 65 years of age.

e. An employee who is part of a Federal, State, or local shelter-in-place order and can provide the required public services remotely as deemed by the Appointing Authority and said services can be verified by electronic surveillance capability of the County.

2. It is the responsibility of each Appointing Authority and supervisor to certify the number of employees telecommuting, as well as to verify the need for telecommuting and to review the work produced during telecommuting. Each Appointing Authority shall report to the County Administrator at the end of every pay period a list to include:

   a. Employees working at the work site;

   b. Employees telecommuting; and,

   c. Employees on leave and the type of leave.

3. It is preferred that essential employees come into the workplace; however, if this is not possible, Appointing Authorities should ensure that no more than 2/3's of its essential employees are telecommuting at any point in time.

4. Appointing Authorities should do their best to ensure that supervisors are physically present in the workplace, absent extenuating circumstance as identified in section (A)(1) above.

5. Essential employees who have had a known exposure to COVID-19, but are not experiencing symptoms, are required to notify their supervisor and/or Appointing Authority and a determination shall be made in conjunction with Human Resources as to whether or not the employee should stay home. Supervisors will determine whether or not an exposed essential employee who does not have symptoms can effectively stay home and telecommute.

B. Remaining Employees

In the event of a reduction in County-wide services, all employees who are not performing essential functions are mandated to stay at home. During this time, an employee can use the recently Federally approved Emergency Paid Sick Time or Emergency Family and Medical Leave Expansion Act leave (Section II) *if applicable*, pandemic outbreak leave, sick accruals, accrued compensatory time, vacation accruals, or a leave without pay.

II. Federal Families First Coronavirus Response Act (FFCRA)

The Federal Families First Coronavirus Response Act (FFCRA) goes into effect April 1, 2020, and sunsets on December 31, 2020. FFCRA provides for paid sick time and paid family medical leave for a public health emergency. Federal Emergency Paid Sick Time, whether for self or caregiving, shall be available for immediate use by the employee, regardless of how long the employee has been employed by the County.

A. Federal Emergency Paid Sick Time - Self

1. Federal Emergency Paid Sick Time – Self (FEPST-Self) is **effective April 1, 2020 through December 31, 2020**, and provides for up to 80 hours of paid sick leave at the employee's regular rate of pay where the employee is unable to work, or telecommute, for the following reasons:

   a. Due to a Federal, State, or local government order to quarantine or isolate;

   b. Due to a health care provider's advice to quarantine; or,

   c. Due to the employee experiencing COVID-19 symptoms and seeking a medical diagnosis.

2. The employee is required to provide documentation from a health care provider that they are seeking a medical diagnosis for COVID-19, whether through a clinic, urgent care, Teladoc, or other healthcare provider. Every effort should be made to not burden the health care system.

3. All medical documentation must be submitted to County Human Resources – Leave Administration, who will approve or deny the request.

4. The rate of pay for an employee taking leave for one of the reasons outlined in section II(A)(1) above will be at their standard rate of pay for a period not to exceed 80 hours.

5. If the employee qualifies for one of the reasons outlined above in Section II(A)(1), they are permitted to use FEPST, pandemic outbreak leave, sick leave, compensatory time, vacation leave, or a leave without pay.

6. For those employees who qualify for FEPST-Self under Section (A)(1)(c), they should consider filing for the Short Term Disability benefit. Any information regarding the County's Short Term Disability benefit can be found on-line or by contacting Human Resources-Benefits.

7. FEPST can be taken intermittently for up to 80 hours, based on the employee's regularly scheduled work hours.

8. An employee may use FEPST for self or caregiving; however, in no event shall either, whether combined or alone, exceed 80 hours total.

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B. Federal Emergency Paid Sick Time - Caregiving

1. Federal Emergency Paid Sick Time – Caregiving (FEPST-Caregiving) is **effective April 1, 2020 through December 31, 2020**, and provides for up to 80 hours of paid sick time at not less than 2/3's of the employee's regular rate of pay where the employee is unable to work, or telecommute, for the following reasons:

   a. The employee is caring for an individual subject due to a Federal, State, or local government order to quarantine or isolate;

   b. The employee is caring for an individual due to a health care provider's advice to quarantine;

   c. The employee needs to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19; or,

   d. The employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services.

2. The employee is required to provide documentation.

   a. If providing caregiving to an individual due to a health care provider's advice to quarantine, a statement from a health care provider stating such is sufficient.

   b. If providing caregiving due to a school closure, any documentation showing that the child is school age and currently attending school is sufficient. Examples may include a recent report card, a current student identification badge, notices of school closure sent to the employee/parent, or any other relevant documentation.

3. All documentation must be submitted to County Human Resources – Leave Administration, who will approve or deny the request

4. The rate of Pay for an employee taking leave for one of the reasons outlined in Section II(B)(1) above is not less than 2/3's of regular rate of pay, capped at $200 per day or $2,000 total, for a period not to exceed 80 hours.

5. The employee is permitted to supplement their pay by using their leave banks to include pandemic leave, sick leave, compensatory time, or vacation accruals.

6. If the employee qualifies for one of the reasons outlined above in Section II(B)(1), they are permitted to use FEPST, pandemic outbreak leave, sick leave, compensatory time, vacation leave, or a leave without pay.

7. FEPST can be taken intermittently, for up to 80 hours, based on the employee's regularly scheduled work hours.

8. An employee may use FEPST for self or caregiving; however, in no event shall either, whether combined or alone, exceed 80 hours total.

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C. Emergency Family and Medical Leave Expansion Act Leave (E-FMLA)

1. The Emergency Family and Medical Leave Expansion (E-FMLA) is **effective April 1, 2020 through December 31, 2020**, and expands FMLA leave by adding a new qualifying absence to the FMLA for "public health emergency leave" that is paid and provides for protected leave. E-FMLA does not increase the amount of FMLA hours an employee receives annually, but expands the reasons for qualifying for FMLA to employees with school age children (under 18) who are affected by a school closure. FMLA hours remain at 480 (12 weeks) of protected leave.

2. E-FMLA for School Closures

   a. Provides 12 weeks of protected leave.

   b. The first 10 days are unpaid; however, the employee is entitled to use FEPST-Caregiving, pandemic outbreak leave, sick leave, compensatory time, vacation leave, or a leave without pay.

   c. The employee is required to provide documentation as outlined in section II(B)(2)(b). All documentation must be submitted to County Human Resources – Leave Administration, who will approve or deny the request. Where approved, the employee will be placed on FMLA for those FMLA hours that the employee has available.

   d. The rate of Pay for a qualified employee taking leave for school closure is not less than 2/3's of regular rate of pay, capped at $200 per day or $10,000 total, for a period not to exceed 10 weeks.

   e. The employee is permitted to supplement their pay by using their leave banks to include pandemic leave, sick leave, compensatory time, or vacation accruals.

3. E-FMLA can be taken intermittently.

4. Employees who have been employed for at least 30 calendar days are eligible for E-FMLA.

III. Temporary Assignments

During the COVID-19 outbreak, when the County is providing full services to the community, an Appointing Authority needing additional employees to assist in providing continuity of services may request temporary assignment of another Department's employees.

A. Process

Every effort will be made to temporarily assign employees from Departments experiencing closures or a shortage of work to assist Departments in need.

1. Departments needing assistance are to complete the Request for Temporary Assignment form located on line and submit it to HR.Reception@pima.gov.

2. Human Resources will match employees from Departments experiencing closures or a shortage of work to a temporary assignment in another Department. Human Resources will notify Grants Management & Innovation and Finance of the change in assignment in order to determine proper funding of the position.

3. Employees on a temporary assignment maintain their work title, home Department, and rate of pay; however, their time may be charged differently.

4. Employees on a temporary assignment may have a change in their work hours and work location.

5. Employees who are provided a temporary assignment and decline, must use their leave banks to include FEPST-Self or FEPST-Caregiving, *if eligible*, pandemic leave, sick leave, compensatory time, vacation leave, or leave without pay.

6. When an employee chooses to go into a leave without pay status, their benefits will be impacted, e.g. retirement credits, health care benefits, leave accruals, etc. Employees may contact Human Resources-Benefits for more information.

IV. ANNUAL LEAVE

A. Annual Accumulation

During the period of the COVID-19 outbreak, essential employees may not be permitted to use their annual leave due to the need to maintain continuity of operations. As a result, Appointing Authorities may submit a memo to the County Administrator by January 15, 2021, requesting approval for their essential employees to carry over an amount of annual leave in excess of two hundred forty (240) hours. An essential employee authorized to carry over additional hours is expected to reduce their annual leave balance to two hundred forty (240) hours no later than their anniversary date in 2022. If the employee has annual leave in excess of two hundred forty (240) hours upon their anniversary date in 2022, the excess will automatically be transferred to sick leave pursuant to personnel policy 8-105(G). Employees who terminate during this timeframe with an excess of two hundred forty (240) hours of annual leave accrued will be paid out their full balance.

V. COVID-19 FURLOUGH

A. Purpose

Due to the COVID-19 outbreak, there are employees who are unable to attend work for various reasons or insufficient work is available for employees to perform. As a result, several employees have been sent home and placed on various types of leaves. As the length of the COVID-19 crisis is unknown, employees may run out of available leaves to take in which to receive continued pay. Therefore, when an employee exhausts all possible leave banks, and is unable to return to work and/or unwilling to take a temporary assignment when available, the employee shall be placed on COVID-19 furlough. This action is necessary and vital to ensure that employees can file for unemployment and continue to receive money during this period of time.

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B. Definition

COVID-19 furlough is temporarily placing an employee in a non-pay, non-duty status or in essence, placing the employee on a type of leave of absence without pay. During the period of time on the COVID-19 furlough, the employee remains an employee of the County. The COVID-19 furlough will not affect an employee's continuous service, length of service, or anniversary date.

C. Process

1. Employees are permitted to utilize their Pandemic Outbreak Leave and FEPST-Self/FEPST-Caregiving pay(s) as outlined in policy. After exhaustion of these pay hours, an employee may use sick leave, compensatory time, and vacation leave. Once an employee has exhausted all available leave accruals, the employee will be placed on COVID-19 furlough.

2. Every pay period, Human Resources will run a report to identify employees with 160 or fewer hours of remaining accruals. Of the identified employees, Human Resources will provide the employee a Notice of Placement on COVID-19 Furlough which the employee can use as documentation to file an unemployment claim with the Department of Economic Security (DES). Human Resources will also create a Personnel Action Form (PAF) and provide a copy of the Notice of Placement on COVID-19 Furlough and PAF to the employee's Department.

3. Human Resources will process the PAF and place both the Notice of Placement on COVID-19 Furlough and PAF in the employee's official personnel file.

4. The employee will remain on COVID-19 furlough until such time as they are called back to work. During the time that an employee is on COVID-19 furlough, the employee remains a County employee.

5. Employees who are on COVID-19 furlough are not permitted to perform any County work tasks, to include responding to work-related emails and phone calls. Employees are required to return all County equipment and devices to the workplace, to include lap tops, SurfacePros, County-issued, cell phones, keys, door access cards, and County identification badges.

6. Employees on COVID-19 furlough do not accrue vacation or sick time, do not receive holiday benefit, or County-sponsored leaves (to include, but not limited to, parental leave, bereavement leave, humanitarian leave, Family and Medical Leave Act leave, etc.) short-term disability benefits, workers' compensation, or retirement system contributions.

D. Request for Placement on COVID-19 Furlough

1. Any employee who is currently not working due to COVID-19 and using accruals can request to be placed on COVID-19 furlough by completing a Request for Placement on COVID-19 Furlough form available on line. Employees should note that if they choose to request COVID-19 furlough, unemployment benefits do not go into effect until exhaustion of all outstanding leave banks. Therefore, for an employee who has a large

amount of available accruals, it may be the better practice to wait until available accruals are reduced before requesting COVID-19 furlough in order to allow DES time to process claims for those individuals in need of immediate assistance. It is recommended that only those employees who have fewer than 160 hours of available accruals request COVID-19 furlough.

2. The employee requesting COVID-19 furlough must submit the completed form to Human Resources at HR.Reception@pima.gov .

3. Upon receipt of the form and verification of available accruals, Human Resources will issue the employee a Notice of Placement on COVID-19 Furlough. Human Resources will also create a Personnel Action Form (PAF) and provide a copy of the Notice of Placement on COVID-19 Furlough and PAF to the employee's Department.

4. Human Resources will process the PAF and place both the Notice of Placement on COVID-19 Furlough and PAF in the employee's official personnel file.

E. Benefits

1. For a period of three (3) months, the County will pay the employer's portion of the insurance premiums. After three months, and in accordance with Administrative Procedure 23-4, when an employee is in an unpaid leave of absence such as COVID-19 furlough, the employee is responsible for payment of both the employee and the employer portion of the insurance premiums in order for coverage to continue and to avoid cancellation or a lapse in coverage. See Administrative Procedure 23-4 for processing of payments.

F. Appeal

Placement on COVID-19 furlough is neither appealable nor grievable.

VI. MASKS

1. Due to community spread of COVID-19 and changing guidance of how the virus is transmitted, employees are encouraged and permitted to wear a mask in the workplace, whether in front-line positions, customer service positions, or non-facing public positions. The County does not provide masks for non-health related positions.

2. In order to avoid discriminatory practices, employees that choose to wear masks must wear them consistently and not just in the presence of certain employees or visitors.

3. Employees can purchase simple cloth masks or can create their own homemade masks. Employees should not attempt to obtain face masks used by health care professionals such as N95 masks, due to the short supply. If wearing a mask, it should:

    a. Fit snugly but comfortably against the side of the face;
    b. Be secured with ties or loops;
    c. Include multiple layers of fabric;
    d. Allow for breathing without restriction; and,
    e. Be able to be laundered and machine dried without damage or change to its shape.

VII. Temporary COVID-19 Premium Pay

A. Definition

Employees who have frequent, unavoidable contact with the public and place themselves at greater risk for contact with the COVID-19 virus due to being unable to adequately distance themselves from others in the course of performing "front-line" work, are eligible for COVID-19 premium pay.

B. Eligible Employees

Eligible employees include, but are not limited to, certain law enforcement, corrections, and animal care positions, medical service positions, counter positions interfacing with the public that are responsible for processing payments, etc.

C. Process

1. Appointing Authorities are required to identify positions necessitating COVID-19 premium pay and request County Administrator approval for those positions to receive the extra pay.

2. Upon approval, the Appointing Authority shall submit the approval and a (PAF) for each employee identified/approved to receive the COVID-19 premium pay to Human Resources for processing. The requests can be sent to HR.Records@pima.gov.

3. Human Resources is responsible to apply the COVID-19 premium pay in the system.

D. Amount of COVID-19 Premium Pay

1. Employees identified and approved for COVID-19 premium pay shall receive $2.00 on top of their regular hourly rate of pay. For those individuals who are currently receiving Special Assignment Pay, those individuals would receive an increase in their current amount of Special Assignment Pay, representing the COVID-19 premium pay increase, up to the maximum of $2.00 per hour total.

2. The COVID-19 premium pay is not in addition to an employee's current Special Assignment Pay they receive.

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 (HIPAA)
General Duty Clause of the Occupational Safety and Health Act (OSHA) Section 5(a)(1)