

**RESOLUTION  
ROCK COUNTY BOARD OF SUPERVISORS**

County Administrator Josh Smith  
INITIATED BY



Corporation Counsel Richard Greenlee  
DRAFTED BY

County Board Staff Committee  
SUBMITTED BY

September 13, 2021  
DATE DRAFTED

**EXTENDING CORONAVIRUS RESPONSE EMPLOYEE LEAVE PROGRAMS  
THROUGH DECEMBER 31, 2021**

1 **WHEREAS**, in March of 2020, the United States Congress passed H.R. 6201, known as the Families  
2 First Coronavirus Response Act, (P.L. 116-127) which among other items, established two leave  
3 programs that certain employers, including units of local government, were required to establish and  
4 administer for their employees; and

5  
6 **WHEREAS**, the first leave program was the Emergency Paid Sick Leave program (“EPSL”), under  
7 which, employees were provided with 80 hours of paid sick leave if they experienced one of six  
8 qualifying events related to the coronavirus: (1) The employee is subject to a Federal, State, or local  
9 quarantine or isolation order related to COVID-19; (2) The employee has been advised by a health care  
10 provider to self-quarantine due to concerns related to COVID-19; (3) The employee is experiencing  
11 symptoms of COVID-19 and seeking medical diagnosis; (4) The employee is caring for an individual  
12 who is subject to an order as described in subparagraph (1) or has been advised as described in  
13 subparagraph (2); (5) The employee is caring for a son or daughter of the employee, if the son or  
14 daughter’s school or place of care has been closed, or the child care provider of the employee’s son or  
15 daughter is unavailable, due to COVID-19 precautions; or (6) The employee is experiencing any other  
16 substantially similar condition specified by the Secretary of Health and Human Services in consultation  
17 with the Secretary of the Treasury and the Secretary of Labor; and

18  
19 **WHEREAS**, employees who took EPSL for qualifying reasons (1)-(4) were paid their regular base wage  
20 for those hours, and employees who took EPSL for qualifying reasons (5) & (6) were paid two-thirds of  
21 their base wage and could be supplemented with other leave available to the employee such as vacation,  
22 holiday, or comp time; and

23  
24 **WHEREAS**, the second leave program was the Emergency Family Medical Leave program (“EFMLA”) under  
25 which employees were provided 12 weeks of job protected leave if they employee was unable to  
26 work (or telework) due to a need for leave to care for child because their child’s school or place of care  
27 has closed or unavailable due to the coronavirus; and,

28  
29 **WHEREAS**, under the EFMLA, employees could receive up to 10 weeks of paid leave, paid at two-  
30 thirds of the employees normal base wage, and could supplement with other leave available to the  
31 employee such as vacation, holiday or compensatory time; and

32  
33 **WHEREAS**, both the EPSL and the EFMLA expired on December 31, 2020; and

34  
35 **WHEREAS**, in December 2020, the Rock County Board of Supervisors approved resolution 20-12A-  
36 147, which created County-specific leave programs that were substantially similar to the federal programs  
37 and that expire on October 1, 2021.

38  
39 **NOW, THEREFORE, BE IT RESOLVED** that the Rock County Board of Supervisors duly assembled  
40 this 23<sup>rd</sup> day of September, 2021 extends the following Coronavirus Related Employee  
41 Leave Policy to supplement the other employee leave programs available to Rock County Employees:

**Definitions**

42  
43  
44  
45 *Eligible Employees:* For the purposes of taking leave under the Emergency Family Leave pursuant to  
46 this Resolution, ‘eligible employees’ are employees who have been employed by the County for at  
47 least 30 calendar days. Consistent with prior decision made by the County pursuant to section 3105

48 of the Families First Coronavirus Response Act the County, the County continues to exclude  
49 care providers and first responders as eligible employees.

50  
51 *Child Care Provider:* the term ‘child care provider’ means a provider who receives compensation for  
52 providing child care services on a regular basis.

53  
54 *First Responder:* The term ‘first responder’ means any employee who works for the following  
55 departments: Rock County Communications Center (911), Rock County Medical Examiner’s Office,  
56 or the Rock County Youth Services Center. ‘First responder’ also includes the following personnel  
57 the Rock County Sheriff’s Office: Employees who are members of the collective bargaining units  
58 represented by the Correctional Officers Association, the Deputy Sheriffs Association, and the  
59 Deputy Sheriff Supervisors Association; all employees in the Emergency Management Bureau; the  
60 Chief Deputy; and all employees holding the rank of commander or captain.

61  
62 *Health Care Provider:* The term ‘health care provider’ means any employee who works for the  
63 following departments: Rock Haven Nursing Home, and Rock County Public Health Department.

64  
65 *Public Health Emergency:* The term ‘public health emergency’ means an emergency with respect to  
66 COVID-19 declared by a Federal, State, or local authority.

67  
68 *Qualifying Need Related to a Public Health Emergency:* The term ‘qualifying need related to a  
69 public health emergency’ means the employee is unable to work (or telework) due to a need for leave  
70 to care for their son or daughter under 18 years of age of the employee because the employee’s son or  
71 daughter’s school or place of care has closed, or the child care provider of the employee’s son or  
72 daughter is unavailable due to a public health emergency.

73  
74 *School:* the term ‘school’ means an elementary school or secondary school as such terms are defined  
75 in section 1801 of the Elementary School and Secondary Education Act of 1965 (20 U.S.C. § 7801).

76  
77 **Temporary COVID Related Paid Sick Leave**

78  
79 **Generally**

80  
81 In addition to the sick leave provided under Section 18.515 of the Rock County Code of Ordinances,  
82 all employees, except as provided below, immediately upon the start of employment shall be  
83 provided Temporary COVID Related Paid Sick Leave under this Resolution. Temporary COVID  
84 Related Paid Sick Leave may be used by an employee under this Resolution to the extent that the  
85 employee is unable to work (or telework) due to a need for leave because:

- 86  
87 (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to  
88 COVID-19;  
89 (2) The employee has been advised by a health care provider to self-quarantine due to concerns  
90 related to COVID-19;  
91 (3) The employee is experiencing symptoms of COVID-19 and seeking medical diagnosis;  
92 (4) The employee is caring for an individual who is subject to an order as described in subparagraph  
93 (1) or has been advised as described in subparagraph (2); or  
94 (5) The employee is caring for a son or daughter of the employee, if the son or daughter’s school  
95 or place of care has been closed, or the child care provider of the employee’s son or daughter  
96 is unavailable, due to COVID-19 precautions.

97  
98 For the purposes this Resolution, health care providers and first responders are only considered  
99 eligible employees for the purposes of taking Temporary COVID Related Paid Sick Leave under  
100 subparagraphs (1), (2), (3), & (4). The terms ‘health care provider’ and ‘first responder’ shall have  
101 the same meaning as those terms are defined under the definitions section of this Resolution above.

102  
103 **Hours of Leave Available and Compensation**

104  
105 An employee shall be entitled to Temporary COVID Related Paid Sick Leave in the amount of 80  
106 hours for 1.0 FTE employees and, for less than 1.0 FTE employees, a number of hours equal to the  
107 number of hours that such employee works, on average, over a 2-week period. In the case of an  
108 employee whose schedule varies from week to week to such an extent that the County is unable to  
109 determine with certainty the number of hours the employee would have worked during a standard pay  
110 period if such employee had not taken leave under the Temporary COVID Related Paid Sick Leave  
111 pursuant to this Resolution, compensation shall be calculated as follows:

- 112  
113 (6) A number of hours in a standard pay period equal to the number of hours that the employee was  
114 scheduled per day over the 6-month period ending on the date on which the employee takes  
115 Temporary COVID Related Paid Sick Leave, including hours for which the employee took any  
116 type of leave; or  
117 (7) If the employee did not work for a 6-month period, the reasonable expectation of the employee  
118 at the time of hiring of the average number of hours per day during a standard pay period that  
119 the employee would normally be scheduled to work.

120  
121 If Temporary COVID Related Paid Sick Leave is used in accordance with subparagraphs (1), (2), or  
122 (3) of this Resolution, then the employee's pay during such leave shall be paid at the employee's  
123 regular rate of pay except that such payment shall be limited to \$511 per day and \$5,110 in the  
124 aggregate. If Temporary COVID Related Paid Sick Leave is used in accordance with subparagraphs  
125 (4), or (5) of this Resolution, then the employee's pay during such leave shall be paid at two thirds of  
126 the employees regular rate of pay, except that such payment shall be limited to \$200 per day and  
127 \$2,000 in the aggregate.

128  
129 Employees may, at their election, supplement their Temporary COVID Related Paid Sick Leave with  
130 the use of any accrued paid leave to which the employee may otherwise be eligible to take under the  
131 Rock County Personnel Ordinance, or the Administrative Policy and Procedure Manual to increase  
132 their compensation to an amount equal to the compensation the employee would have received if  
133 such employee had not used Temporary COVID Related Paid Sick Leave.

### 134 135 **Order of Use and Carry Over**

136  
137 Temporary COVID Related Paid Sick Leave under this Resolution shall not carry over from 1 year to  
138 the next and shall not be eligible for pay-out under section 18.515 of the Rock County Code of  
139 Ordinances.

140  
141 Temporary COVID Related Paid Sick Leave provided to employees under this Resolution shall cease  
142 beginning with the employee's next scheduled work shift immediately following the termination of  
143 the need for paid sick leave under subparagraphs (1)-(5) above. Upon cessation of Temporary  
144 COVID Paid Sick Leave, the employee must return to work, or if qualified, use other available paid  
145 or unpaid benefit time under the Rock County Personnel Ordinance or the Administrative Policy and  
146 Procedure Manual.

### 147 148 **COVID Related Family Leave**

#### 149 150 **Generally**

151  
152 Eligible employees are entitled to take COVID Related Family Leave because of a qualifying need  
153 related to a public health emergency. Such leave shall be taken in the same manner leave provided  
154 under the Family Medical Leave Act in accordance with Policy 5.12 of the Administrative Policy and  
155 Procedure Manual, except as provided under this Resolution. Leave under this Resolution shall be in  
156 addition to any leave available under Policy 5.12.

#### 157 158 **Relationship to Paid Leave:**

159  
160 The first 10 days for which an employee takes leave because of a qualifying need related to a public  
161 health emergency shall be unpaid. An employee may elect to substitute any accrued paid leave to  
162 which the employee may otherwise be eligible to take under the Rock County Personnel Ordinance,  
163 or the Administrative Policy and Procedure Manual for unpaid leave.

164  
165 After taking leave because of a qualifying need related to a public health emergency under this  
166 Resolution for 10 days, the employee shall be paid as follows:

- 167  
168 (1) An amount that is equal to two-thirds of the employee's regular rate of pay; and  
169 (2) For the number of hours the employee would otherwise be normally scheduled to work during  
170 a standard pay period (or the number of hours calculated for a varying schedule employee  
171 below).  
172 (3) Capped at \$200 per day and a maximum of \$10,000 in the aggregate.

173  
174 In the case of an employee whose schedule varies from week to week to such an extent that the  
175 County is unable to determine with certainty the number of hours the employee would have worked

176 during a standard pay period if such employee had not taken leave under this policy, compens  
177 shall be calculated as follows:

- 178
- 179 (4) A number of hours in a standard pay period equal to the number of hours that the employee was
- 180 scheduled per day over the 6-month period ending on the date on which the employee takes
- 181 leave under this policy, including hours for which the employee took any type of leave; or
- 182 (5) If the employee did not work for a 6-month period, the reasonable expectation of the employee
- 183 at the time of hiring of the average number of hours per day during a standard pay period that
- 184 the employee would normally be scheduled to work.
- 185

186 Employees may supplement paid leave under this policy with accrued paid leave to which the  
187 employee may otherwise be eligible to take under the Rock County Personnel Ordinance or  
188 Administrative Policy and Procedure Manual to make up any difference in pay based upon the  
189 number of hours the employee would otherwise be normally scheduled to work as provided above.

190  
191 **Return to Work After Leave**

192  
193 Employees returning to work after a period of leave under this policy shall return in accordance with  
194 the provisions set forth in Policy 5.12 of the Administrative Policy and Procedure Manual.

195  
196 **BE IT FURTHER RESOLVED** that any leave program established by this Resolution shall expire upon  
197 a determination made by the County Board Staff Committee that a leave program has been established  
198 by any act or regulation of the State of Wisconsin or Federal Government which would adequately  
199 substitute any leave program created pursuant to this Resolution such that employees would not be  
200 substantially disadvantaged by the discontinuance and replacement of the leave programs established by  
201 this resolution, or upon December 31, 2021, whichever comes first, and upon such expiration all unused  
202 leave balances under this resolution shall extinguish.

Respectfully submitted,

COUNTY BOARD STAFF COMMITTEE

/s/Rich Bostwick  
Rich Bostwick, Chair

/s/Louis Peer  
Louis Peer

/s/Wes Davis  
Wes Davis, Vice Chair

/s/J. Russell Podzilni  
J. Russell Podzilni

/s/Mary Beaver  
Mary Beaver

/s/Alan Sweeney  
Alan Sweeney

/s/Tom Brien  
Tom Brien

/s/Bob Yeomans  
Bob Yeomans

/s/Kevin Leavy  
Kevin Leavy

EXTENDING CORONAVIRUS RESPONSE EMPLOYEE LEAVE PROGRAMS THROUGH  
DECEMBER 31, 2021

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FISCAL NOTE:

Leave costs are included in department's personnel budgets. The County has paid approximately \$106,000 in COVID related leave so far in 2021.

/s/ Sherry Oja

Sherry Oja  
Finance Director

LEGAL NOTE:

The County Board is authorized to take this action pursuant to secs. 59.22(2), Wis. Stats.

*s/Richard Greenlee*

Richard Greenlee  
Corporation Counsel

ADMINISTRATIVE NOTE:

This policy was established in December 2020, during the peak case period of the COVID-19 pandemic and before vaccines were available. Little was known at that time what cases in 2021 would be, but it was hoped that the advent of the vaccines would reduce case numbers, and that continuing these leave programs until October 1, 2021, would allow time sufficient time to assess the ongoing need for this policy, particularly following the return to school in September. Unfortunately, COVID-19 cases are rising again due to the Delta variant and vaccination levels lower than are necessary to stop virus mutations.

As I had noted in my Administrative Note on the December 2020 resolution establishing this policy, providing a supplemental leave program that provides incentive for COVID-positive or -exposed staff to not bring the virus into the workplace and to care for ill family members is a reasonable step to help control the spread. Providing a leave option to staff who are challenged with child care due to school or day care closures and who are otherwise unable to work remotely would support employee families in a difficult time.

If the Board approves this extension, we will re-evaluate the need for this policy over the next several months and make a recommendation to the County Board in December 2021 as to whether to further extend this policy into 2022.

/s/ Josh Smith

Josh Smith  
County Administrator

## Executive Summary

In March of 2020, the United States Congress passed H.R. 6201, known as the Families First Coronavirus Response Act (FFCRA), which among other items, established two leave programs that certain employers, including units of local government, were required to establish and administer for their employees.

The first leave program was the Emergency Paid Sick Leave program (EPSL), under which employees were provided with 80 hours of paid sick leave if they experienced one of six qualifying events related to the Coronavirus. The second leave program was the Emergency Family Medical Leave (EFMLA) program, under which employees were provided 12 weeks of job protected leave if they employee is unable to work (or telework) due to a need for leave to care for child because their child's school or place of care has closed or unavailable due to the coronavirus. Both the EPSL and the EFMLA expired on December 31, 2020. In December 2020, the Rock County Board of Supervisors created Rock County-specific programs that were substantially similar to these federal programs and that expire on October 1, 2021.

This resolution extends this Rock County-specific Coronavirus Related Employee Leave Policy, to supplement the other employee leave programs available to Rock County Employees. The policy details, which remain the same, are as follows.

### Temporary COVID Related Paid Sick Leave

The first of two programs under this policy, referred to as Temporary COVID Related Paid Sick Leave, may be used by an employee under this Resolution to the extent that the employee is unable to work (or telework) due to a need for leave because:

- (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 medical diagnosis;
- (4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in subparagraph (2); or
- (5) The employee is caring for a son or daughter of the employee, if the son or daughter's school or place of care has been closed, or the child care provider of the employee's son or daughter is unavailable, due to COVID-19 precautions.

Temporary COVID Related Paid Sick Leave would provide up to 80 hours (pro-rated for part-time staff) of paid leave.

### COVID Related Family Leave

The second program under this policy, referred to as COVID Related Family Leave, would provide an additional 10 weeks of job-protected leave to employees who must care for a child due to a school or day care closure.

The amount an employee would be paid under both programs can vary, is subject to limits, and can be supplemented by an employee's own accrued paid leave balances for which they would otherwise be eligible to take.

When the County implemented the federally required programs earlier in 2020, it made a decision to exclude first responders and health care providers from being able to access child care-related leave due to concerns about staffing shortages in critical response areas. This resolution would continue that decision.

As with the prior resolution, any leave program extended by this resolution would expire upon a determination made by the County Board Staff Committee that a leave program has been established by the State of Wisconsin or federal government that would adequately substitute any leave program created pursuant to this resolution such that employees would not be substantially disadvantaged by the discontinuance and replacement of the leave programs established by this resolution, or upon a new termination date of December 31, 2021, whichever comes first.