

BOARD AGENDA ITEM

March 23, 2021

SUBJECT:

Revision of Administrative Rules GCC-R(2) (Professional Staff) and GDC-R(2) (Support Staff), COVID-19 Related Leave

BACKGROUND INFORMATION:

Administrative Rules GCC-R(2) (Professional Staff) and GDC-R(2) (Support Staff), COVID-19 Related Leave, approved May 5, 2020 established guidelines for implementation of temporary leave requirements under the Families First Coronavirus Response Act (FFCRA). FFCRA has concluded. The revision of Administrative Rules GCC-R(2) (Professional Staff) and GDC-R(2) (Support Staff), COVID-19 Related Leave, to establish guidelines for implementation of temporary leave requirements is required by the South Carolina Department of Education if emergency paid sick leave will be funded by the Elementary and Secondary Schools Emergency Relief (ESSER) II program funds.

ADMINISTRATIVE CONSIDERATION:

The proposed revision of the Administrative Rules provide direction for the temporary leave requirements required by the South Carolina Department of Education and funded by the Elementary and Secondary Schools Emergency Relief (ESSER) II program funds. These administrative rules will accompany the current leave policies. Administrative rules were used because of the temporary nature of the leave.

RECOMMENDATION:

Approve the revision of the temporary addition of Administrative Rules GCC-R(2) (Professional Staff) and GDC-R(2) (Support Staff), COVID-19 Related Leave

ATTACHMENTS:

Administrative Rule GCC-R(2) (Professional Staff), COVID-19 Related Leave
Administrative Rule GDC-R(2) (Support Staff), COVID-19 Related Leave

PREPARED BY:

Jennifer Hart
Salvatore Minolfo

COVID-19 RELATED LEAVE (PROFESSIONAL STAFF)

Code **GCC-R(2)** Issued **5/2003/21**

The Families First Coronavirus Response Act (FFCRA) requires the district to will provide staff members with emergency paid sick leave and/or expanded family and medical leave for specified reasons related to COVID-19. The following leave provisions will apply from April 1, 2020, through December 31, 2020 effective January 1, 2021.

For purposes of this policy, *child* is defined as a staff member's own child, which includes his or her biological, adopted, or foster child; a stepchild; a legal ward; a child for whom the staff member stands *in loco parentis* - someone with day-to-day responsibilities to care for or financially support a child; or an adult son or daughter (i.e. one who is 18 years of age or older), who has a mental or physical disability and is incapable of self-care because of that disability.

Emergency Paid Sick Leave

Emergency paid sick leave will be available to all eligible full- and part-time staff for six (6) qualifying COVID-19 related reasons. Such leave will be job-protected and include the continuation of health insurance during the period of leave.

Eligibility

A staff member is entitled to take emergency paid sick leave for up to a two-week period if the staff member is unable to work or telework because he or she:

1. is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. is experiencing COVID-19 symptoms and seeking a medical diagnosis;
4. is caring for an individual 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 due to concerns related to COVID-19. An individual can be an immediate family member, a person whom regularly resides in the staff member's home, or an individual with whom the staff member has a relationship creating an expectation that the staff member would care for that person;
5. is caring for his or her child whose school or place of care is closed (or child provider is unavailable) due to COVID-19 precautions; or
6. ~~is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.~~

(Note: While the district ~~should~~ will require documentation from a health care provider attesting to the necessary quarantine or isolation order, the district ~~should~~ will not require formal certification as mandated for a serious health condition under the Family Medical Leave Act (FMLA).)

For purposes of this policy, *two-week period* is interpreted as follows:

- Full-time staff members may receive up to eighty (80) hours of emergency paid sick leave (the equivalent of two (2) weeks).
- Part-time staff members may receive paid sick leave up to the number of hours equal to the number of hours they work, on average, over a two-week period.

PAGE 2 - GCC-R(2) - COVID-19 RELATED LEAVE (PROFESSIONAL STAFF)

Amount of pay

For emergency paid sick leave taken for reasons 1, 2, or 3 above, the staff member is due 100% of their regular rate of pay capped at \$511/day or \$5,110 total.

For emergency paid sick leave taken for reasons 4, or 5, or 6 above, the staff member is due two-thirds of their regular rate of pay capped at \$200/day or \$2,000 total.

~~Application of the FFCRA leave will not impact a staff member's exempt status.~~

(Note: The district may allow staff members to use accrued leave to increase the daily rate of pay.)

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

Emergency FMLA paid sick leave will be available to staff members caring for a child whose school or place of care is closed due to COVID-19 related reasons for a period of up to ~~twelve (12)~~ two (2) workweeks. Staff members should attest that no other person is available to provide childcare. Such leave will be job-protected and include the continuation of health insurance during the period of leave.

Eligibility

All staff members, including full-time and part-time staff, are eligible for E-FMLA emergency paid sick leave if they have been employed by the district for at least thirty (30) calendar days. The thirty (30) calendar days will be calculated from the date in which the employee requested the leave.

~~Because E-FMLA leave is a new, temporary qualification under the FMLA, prior FMLA leave taken will be deducted from the 12-week E-FMLA period. Staff members who have already used twelve (12) weeks of leave under the FMLA during the preceding twelve (12) month period or calendar year are not eligible for E-FMLA leave.~~

Amount of Pay

The initial emergency paid sick leave for up to two (2) weeks of E-FMLA leave is unpaid will be paid from the Elementary and Secondary Schools Emergency Relief (ESSER) II program funds. During the two-week unpaid portion of the E-FMLA leave, the staff member may choose to use emergency paid sick leave as described in the first section of this administrative rule, or may use accrued paid leave he or she has available through the district.

The remaining ten (10) weeks are paid at two-thirds the staff member's regular rate of pay. E-FMLA leave is capped at \$200/day or \$10,000 total. *(Note: The district may allow staff members to use accrued personal or annual leave to increase the daily rate of pay.)*

~~Application of the FFCRA leave will not impact a staff member's exempt status.~~

Intermittent leave

The district may permit E-FMLA leave to be taken intermittently for childcare consistent with the law.

Issued 5/12/2020, 03/23/2021

Formatted: Indent: Left: 0.08", First line: 0", Right: 0.08", Space Before: 10.35 pt, Line spacing: Multiple 0.8 li

COVID-19 RELATED LEAVE (SUPPORT STAFF)

Code **GDC-R(2)** Issued **5/2003/21**

The Families First Coronavirus Response Act (FFCRA) requires the district to will provide staff members with emergency paid sick leave and/or expanded family and medical leave for specified reasons related to COVID-19. The following leave provisions will apply from April 1, 2020, through December 31, 2020 effective January 1, 2021.

For purposes of this policy, *child* is defined as a staff member's own child, which includes his or her biological, adopted, or foster child; a stepchild; a legal ward; a child for whom the staff member stands *in loco parentis* - someone with day-to-day responsibilities to care for or financially support a child; or an adult son or daughter (i.e. one who is 18 years of age or older), who has a mental or physical disability and is incapable of self-care because of that disability.

Emergency Paid Sick Leave

Emergency paid sick leave will be available to all eligible full- and part-time staff for ~~six (6)~~ qualifying COVID-19 related reasons. Such leave will be job-protected and include the continuation of health insurance during the period of leave.

Eligibility

A staff member is entitled to take emergency paid sick leave for up to a two-week period if the staff member is unable to work or telework because he or she:

1. is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. is experiencing COVID-19 symptoms and seeking a medical diagnosis;
4. is caring for an individual 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 due to concerns related to COVID-19. An individual can be an immediate family member, a person whom regularly resides in the staff member's home, or an individual with whom the staff member has a relationship creating an expectation that the staff member would care for that person;
5. is caring for his or her child whose school or place of care is closed (or child provider is unavailable) due to COVID-19 precautions; or
6. ~~is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.~~

(Note: While the district ~~should~~ will require documentation from a health care provider attesting to the necessary quarantine or isolation order, the district ~~should~~ will not require formal certification as mandated for a serious health condition under the Family Medical Leave Act (FMLA).)

For purposes of this policy, *two-week period* is interpreted as follows:

- Full-time staff members may receive up to eighty (80) hours of emergency paid sick leave (the equivalent of two (2) weeks).
- Part-time staff members may receive paid sick leave up to the number of hours equal to the number of hours they work, on average, over a two-week period.

PAGE 2 - GDC-R(2) - COVID-19 RELATED LEAVE (SUPPORT STAFF)

Amount of pay

For emergency paid sick leave taken for reasons 1, 2, or 3 above, the staff member is due 100% of their regular rate of pay capped at \$511/day or \$5,110 total.

For emergency paid sick leave taken for reasons 4, or 5, or 6 above, the staff member is due two-thirds of their regular rate of pay capped at \$200/day or \$2,000 total.

~~Application of the FFCRA leave will not impact a staff member's exempt status.~~

(Note: The district may allow staff members to use accrued leave to increase the daily rate of pay.)

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

Emergency FMLA paid sick leave will be available to staff members caring for a child whose school or place of care is closed due to COVID-19 related reasons for a period of up to ~~twelve (12)~~ two (2) workweeks. Staff members should attest that no other person is available to provide childcare. Such leave will be job-protected and include the continuation of health insurance during the period of leave.

Eligibility

All staff members, including full-time and part-time staff, are eligible for E-FMLA emergency paid sick leave if they have been employed by the district for at least thirty (30) calendar days. The thirty (30) calendar days will be calculated from the date in which the employee requested the leave.

~~Because E-FMLA leave is a new, temporary qualification under the FMLA, prior FMLA leave taken will be deducted from the 12-week E-FMLA period. Staff members who have already used twelve (12) weeks of leave under the FMLA during the preceding twelve (12) month period or calendar year are not eligible for E-FMLA leave.~~

Amount of Pay

The initial emergency paid sick leave for up to two (2) weeks of E-FMLA leave is unpaid will be paid from the Elementary and Secondary Schools Emergency Relief (ESSER) II program funds. During the two-week unpaid portion of the E-FMLA leave, the staff member may choose to use emergency paid sick leave as described in the first section of this administrative rule, or may use accrued paid leave he or she has available through the district.

The remaining ten (10) weeks are paid at two-thirds the staff member's regular rate of pay. E-FMLA leave is capped at \$200/day or \$10,000 total. *(Note: The district may allow staff members to use accrued personal or annual leave to increase the daily rate of pay.)*

~~Application of the FFCRA leave will not impact a staff member's exempt status.~~

Intermittent leave

The district may permit E-FMLA leave to be taken intermittently for childcare consistent with the law.

Issued 5/12/2020, 03/23/2021

Formatted: Indent: Left: 0.08", First line: 0", Right: 0.08", Space Before: 10.35 pt, Line spacing: Multiple 0.8 li