

## Richland County Committee

### Agenda Item Cover

**Agenda Item Name:** Amendment to COVID-19 Plan regarding exempt employees

<b>Department</b>	Administration	<b>Presented By:</b>	Administrator Langreck
<b>Date of Meeting:</b>	5 Nov 2020	<b>Action Needed:</b>	Vote
<b>Disclosure:</b>	Open Session	<b>Authority:</b>	Committee Structure E
<b>Date submitted:</b>	5 Nov 2020	<b>Referred by:</b>	

#### **Recommendation and/or action language:**

Motion to recommend amendments to the Richland County COVID-19 plan by allowing Department Heads to grant “Exempted COVID-19 Leave” to, Families First Act exempt employees, while isolated for having personally tested positive for COVID-19, with proposed / amended policy language changes, effective the beginning of the next pay period following adoption.

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#### **Background:** (preferred one page or less with focus on options and decision points)

President Trump signed legislation on March 18, 2020 which modifies the requirements of the Family and Medical Leave Act (Emergency Family and Medical Leave Expansion Act) EFMLEA, expands access to Unemployment Compensation Insurance Benefits (Emergency Unemployment Insurance Stabilization and Access Act of 2020) and creates paid sick leave (Emergency Paid Sick Leave Act) PLSA for employees while the employee or his/her family members are impacted by COVID-19.

When creating the Richland County Families First Act policy, the following positions were identified as exempt, with amendments in October 2020 further defining “Health Care Providers” at Pine Valley:

For purpose of this policy the following positions are considered exempt:

- County Administrator
- Public Health nurses and all staff
- Pine Valley Community Village healthcare providers including: Director of Nursing, Registered Nurse Manager, Social Service Supervisor, Social Worker, Registered Nurse Supervisor, Registered Nurse, Licensed Practical Nurse, Medication Aide, Unit Clerk, Certified Nursing Assistant, CBRF Unit Clerk, Activity Aide, Personal Care Worker, Resident Assistant (changes effective 11 September 2020)
- Law enforcement officers
- Jail personnel
- Emergency medical services personnel and all staff
- Dispatchers
- Highway patrolmen and equipment operators
- Management Information Systems personnel

Language is incorporated into the Richland County COVID-19 Plan which states. *“Employees not utilizing PLSA or EFMLEA will be required to use their available leave balances for the duration of their illness or to provide care for a family member’s illness (including available compensatory, sick, vacation and floating holiday). Employees exceeding all paid benefit time available will be allowed to enter a negative balance on their sick leave accrual bank until they can safely return to work. Once they have*

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*returned, all future paid time off (including compensatory, sick, vacation, and floating holiday) will be recouped at time earned to offset any remaining negative balance.”*

Discussion has been had at Finance and Personnel and on the County Board floor regarding the inequity of the policy as it relates to essential workers impacted by COVID-19.

In efforts to recognize the inequity and hardship imposed on our essential workers during this pandemic a recommendation is made to allow Department Heads to grant “Exempted COVID-19 Leave” to, Families First Act exempt employees, while isolated for having personally tested positive for COVID-19. It is felt by the County Administrator that this action would help further recognize the impacts to these employees and yet all the county to maintain critical functions, understanding that this benefit still does not create equity with entitlement to the Families Frist Act.

An alternative option would be to eliminate the identification of “exempt employees” and allow all county employees access and entitlement to PLSA and EFMLEA. This option is possible, but may jeopardize staffing needs and critical functions.

Alternative options may also exist in exercising discretion to allow for “Exempted COVID-19 Leave” for additional PLSA/EFMLEA criteria. [Reference the worksheet below]

Additional decision points to consider: 1) Effective Date, residing when to make the benefit available (retroactive or future) may impact individual employees. 2) Criteria, the county has the authority to identify qualifying criteria. The more opportunities allowed is of greater benefit to the employee but generates increased risk in staffing and performing essential functions.

#### Attachments and References:

COVID-19 Plan	Families First Act Plan
Decision Worksheet	

#### Financial Review:

(please check one)

<input type="checkbox"/>	In adopted budget	Fund Number	
<input type="checkbox"/>	Apportionment needed	Requested Fund Number	
<input type="checkbox"/>	Other funding Source		
<input type="checkbox"/>	No financial impact		

*(summary of current and future impacts)*

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#### Approval:

#### Review:

*Clinton Langreck*

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Department Head

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Administrator, or Elected Office (if applicable)

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#### Option #1: Proposed Changes in COVID-19 Plan that allows compensated time for (+) test

##### 1.01 Emergency Leave/Sick Leave.

- A. Employees that are exempt from PSLA or EFMLEA may be granted “Exempted COVID-19 Leave”, for up to a total of 10 days in a two-week period, at 100% normal compensation, while the employee is isolated for having personally tested positive for COVID-19 (effective November 18<sup>th</sup>, 2020).
  - 1. Department heads will have authority to grant this leave and will verify / attest to their employee’s positive test when submitting to payroll.
  - 2. Departments will utilize applicable pay codes as established through the Clerk’s Office when submitting Exempted COVID-19 to the Clerk’s Office.
- B. Employees not utilizing PSLA, ~~or~~ EFMLEA or Exempted COVID-19 Leave will be required to use their available leave balances for the duration of their illness or to provide care for a family member’s illness (including available compensatory, sick, vacation and floating holiday). Employees exceeding all paid benefit time available will be allowed to enter a negative balance on their sick leave accrual bank until they can safely return to work. Once they have returned, all future paid time off (including compensatory, sick, vacation, and floating holiday) will be recouped at time earned to offset any remaining negative balance. Employees who begin experiencing symptoms are urged to call a healthcare provider first before proceeding to a healthcare facility so that healthcare providers can prepare for their arrival. Requirements for filing FMLA paperwork is in effect for leaves not covered by the PLSA and EFMLEA. Richland County policy regarding voluntary sick leave donation remains in effect if illness/condition meets catastrophic level as defined by policy.

1.02 Employees with a suppressed or compromised immune system, or employees living with a person with a suppressed or compromised immune system are encouraged to communicate the need for an accommodation.

1.03 To the extent possible, remaining staff shall cover the duties and responsibilities of staff on emergency leave or sick leave.

Department heads and supervisors are required to protect their employees’ right to privacy under the Americans with Disabilities Act (ADA) and Health Insurance Portability and Protection Act (HIPPA).

#### Option #2: Remove positions from exempted list

PLSA Eligibility Section:

- A. **Employee eligibility:** All regular full-time and regular part-time employees actively employed by Richland County. ~~Excludes health care providers and emergency first responders. (clarification provided at~~  
<https://www.dol.gov/agencies/whd/pandemic/ffera-questions> Questions 56 and 57)

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For purpose of this policy the following positions are considered exempt:

- ~~County Administrator~~
- ~~Public Health nurses and all staff~~
- ~~Pine Valley Community Village healthcare providers including: Director of Nursing, Registered Nurse Manager, Social Service Supervisor, Social Worker, Registered Nurse Supervisor, Registered Nurse, Licensed Practical Nurse, Medication Aide, Unit Clerk, Certified Nursing Assistant, CBRF Unit Clerk, Activity Aide, Personal Care Worker, Resident Assistant (changes effective 11 September 2020)~~
- ~~Law enforcement officers~~
- ~~Jail personnel~~
- ~~Emergency medical services personnel and all staff~~
- ~~Dispatchers~~
- ~~Highway patrolmen and equipment operators~~
- ~~Management Information Systems personnel~~

EFMLEA Eligibility Section:

- A. **Employee eligibility:** All regular full-time and regular part-time employees employed by Richland County for at least 30 calendar days. ~~Excludes health care providers and emergency first responders. (clarification provided at~~  
<https://www.dol.gov/agencies/whd/pandemic/ffera-questions> Questions 56 and 57)

For purpose of this policy the following positions are considered exempt:

- ~~County Administrator~~
- ~~Public Health nurses and all staff~~
- ~~Pine Valley Community Village healthcare providers including: Director of Nursing, Registered Nurse Manager, Social Service Supervisor, Social Worker, Registered Nurse Supervisor, Registered Nurse, Licensed Practical Nurse, Medication Aide, Unit Clerk, Certified Nursing Assistant, CBRF Unit Clerk, Activity Aide, Personal Care Worker, Resident Assistant (changes effective 11 September 2020)~~
- ~~Law enforcement officers~~
- ~~Jail personnel~~
- ~~Emergency medical services personnel and department staff~~
- ~~Dispatchers~~
- ~~Highway patrolmen and equipment operators~~
- ~~Management Information Systems personnel~~

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### Course of Action Development: Worksheet - Equitable solution with COVID-19 absence for exempt employees

Title:		Qualification Criteria:		Benefit		Admin and Equity Factor:		Control Factors:				
PLSA:		Qualifications for Eligible Employees:		Pay:	Amount:	Admin Challenges:		Equity Factor:		Authorization	Effective Date:	End Date:
1	the employee is subject to a Federal, State or local quarantine or isolation order relative to the COVID-19 virus;		100%	up to a 80 hours total in two week period	If we deem our essential workers as "none exempt" for purposes of Families First, benefit entitlement may impact our departments' abilities to meet staffing levels and perform essential functions.	Eliminating exempt positions would be the most equitable factor from benefit perspective.	By Policy Through Department Heads	November 18th	December 31st unless legislative extension			
2	the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;		100%	up to a 80 hours total in two week period								
3	the employee is experiencing symptoms of the COVID-19 (fever, cough, sore throat, shortness of breath) and is seeking medical diagnosis from an appropriate health provider;		100%	up to a 80 hours total in two week period								
4	the employee is caring for a family member subject to a federal, state or local order related to COVID-19—"family member" is defined according FMLA; Spouse, Children, and Parents <a href="https://webapps.dol.gov/elaws/whd/fmla/10b1.aspx">https://webapps.dol.gov/elaws/whd/fmla/10b1.aspx</a> ;		2/3rds	up to a 80 hours total in two week period								
5	the employee is caring for a son or daughter whose school or place of care is closed or child care provider is unavailable due to COVID-19 precautions; or,		2/3rds	up to a 80 hours total in two week period								
6	the employee is experiencing a substantially similar condition to COVID-19 as has been identified by the Secretary of Health and Human Services.		2/3rds	up to a 80 hours total in two week period								
EFMLEA:		Qualifications for Eligible Employees:		Pay:	Amount:	Admin Challenges:		Equity:		Authorization	Effective Date:	End Date:
1	Employee is unable to work or telecommute to care for a minor child if the child's school or childcare has been closed or is unavailable due to a public health emergency (COVID-19).		2/3rds	up to 12 weeks after 10 day elimination	If we deem our essential workers as "none exempt" for purposes of Families First, benefit entitlement may impact our departments' abilities to meet staffing levels and perform essential functions.	Eliminating exempt positions would be the most equitable factor from benefit perspective.	By Policy Through Department Heads	November 18th	December 31st unless legislative extension			
Exempt Leave:		Qualifications for Eligible Employees:		Pay:	Amount:	Admin Challenges:		Equity:		Authorization	Effective Date:	End Date:
Current COVID-19 Policy Sick Leave Use	Emergency Leave/Sick Leave. Employees not utilizing PSLA or EFMLEA will be required to use their available leave balances for the duration of their illness or to provide care for a family member's illness (including available compensatory, sick, vacation and floating holiday). Employees exceeding all paid benefit time available will be allowed to enter a negative balance on their sick leave accrual bank until they can safely return to work. Once they have returned, all future paid time off (including compensatory, sick, vacation, and floating holiday) will be recouped at time earned to offset any remaining negative balance.		up to %100 using benefit time and going negative	no defined limit	This is in place. Status Quo	This is in place. Status Quo	By Policy Through Department Heads	17-May-20	Not defined			

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Title:		Qualification Criteria:		Benefit		Admin and Equity Factor:		Control Factors:		
Options:	COA Development:	Pay:	Amount:	Admin Challenges:		Equity:		Authorization	Effective Date:	End Date:
Grant "Exempted COVID-19 Leave" pay to employees...										
1	...tests positive for COVID-19	100	up to a 80 hours total in two week period	Need pay codes. Need to Define Criteria for eligibility. Need to Define Effective Date. Need to define end date. Need to define authority to grant.		This COA is not equitable in comparison to eliminating "exempted positions" but attempts to again recognize essential employees.		By Policy Through Department Heads	Beginning of the next pay period following adoption	not defined, will carry with COVID-19 plan
2	is subject to a Federal, State or local quarantine or isolation order relative to the COVID-19 virus	100	up to a 80 hours total in two week period						September 16, 2020 proposed by PV (date changes were effective for Healthcare Providers)	
3	the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;	100	up to a 80 hours total in two week period						If we go retroactive we will have restore used BTO and decide on date.	
4	the employee is experiencing symptoms of the COVID-19 (fever, cough, sore throat, shortness of breath) and is seeking medical diagnosis from an appropriate health provider;	100	up to a 80 hours total in two week period						Establishing a retroactive date will be challenging.	
5	the employee is caring for a family member subject to a federal, state or local order related to COVID-19—"family member" is defined according FMLA; Spouse, Children, and Parents <a href="https://webapps.dol.gov/elaws/whd/fmla/10b1.aspx">https://webapps.dol.gov/elaws/whd/fmla/10b1.aspx</a> ;	2/3rds	up to a 80 hours total in two week period	2/3rds pay is added payroll strain and coordination to see if employee wants to make self whole						
6	the employee is caring for a son or daughter whose school or place of care is closed or child care provider is unavailable due to COVID-19 precautions; or,	2/3rds	up to a 80 hours total in two week period							
7	the employee is experiencing a substantially similar condition to COVID-19 as has been identified by the Secretary of Health and Human Services.	2/3rds	up to a 80 hours total in two week period							
8	Employee is unable to work or telecommute to care for a minor child if the child's school or childcare has been closed or is unavailable due to a public health emergency (COVID-19).	2/3rds	up to 12 weeks after 10 day elimination							