

# THE PORT AUTHORITY OF NEW YORK & NEW JERSEY PORT AUTHORITY TRANS-HUDSON CORPORATION

## EMERGENCY PAID SICK LEAVE & EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION

*Policy Effective April 17, 2020 Through September 30, 2021*

**POLICY UPDATE – MAY 26, 2021:** *The Port Authority has extended Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion (EFML) until September 30, 2021. Employees may use their available EPSL and EFML allotments if they have not exhausted them – subject to eligibility rules and all other guidelines set forth in this policy. The agency’s COVID-19 Leave Enhancements for additional occasions of COVID-19 illness or exposure also continue to be available through September 30, 2021. EPSL and COVID-19 Leave Enhancements may be used by an employee who experiences illness related to receiving a COVID-19 vaccine and is unable to work remotely – the employee must email a photograph of their CDC COVID-19 Vaccination Record Card to [vaccine@panynj.gov](mailto:vaccine@panynj.gov).*

As the Port Authority navigates the end of the COVID-19 pandemic, we want to ensure that you understand the leave benefits available during one of the most unprecedented times in our agency’s 100-year history.

In accordance with the federal **Families First Coronavirus Response Act (FFCRA)**, the agency provides employees with leave for specified reasons related to COVID-19 in the form of **(1) Emergency Paid Sick Leave** and **(2) Emergency Family and Medical Leave Expansion**. **These leave programs became effective on April 17, 2020, and have been extended by the agency until September 30, 2021.**

Under the FFCRA, an employee qualifies for **Emergency Paid Sick Leave** if the employee is unable to work (or work remotely) due to a need for leave related to COVID-19 because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order;
2. has been advised by a health care provider to self-quarantine;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for their child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 reasons;
6. is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services; or
7. is experiencing side effects after receiving a COVID-19 vaccine.

The agency has enhanced **Emergency Paid Sick Leave** beyond the federal mandate by eliminating the daily monetary caps under this section and providing employees with their full regular pay for up to two workweeks (capped at 80 hours) for all reasons listed above. Additionally, where the FFCRA allows employers to exclude emergency responders and health care providers, we have chosen to include all employees. (According to the U.S. Department of Labor [DOL], the definitions of “emergency responder” and “health care provider” include any agency employees who have been deemed essential.)

Under the FFCRA, an employee qualifies for **Emergency Family and Medical Leave Expansion** if the employee is unable to work (or work remotely) due to caring for their child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 reasons. Although under this section employees will receive partial pay, we have also made the benefit available upon hire rather than after 30 calendar days of employment. Where the FFCRA allows employers to exclude emergency responders and health care providers, the agency’s adoption of Emergency Family and Medical Leave Expansion will apply on a case-by-case basis for essential employees. This will be determined by department leaders, based on whether an employee’s leave will result in the loss of key personnel critical to maintaining essential operations (criteria details in the policy guidelines below).

Any leave(s) taken under FFCRA will not impact eligibility for career opportunities (e.g., work assignments, awards and recognition, development opportunities, promotions, training, etc.). FFCRA leaves will also not count toward absence control criteria for excessive or pattern absenteeism, and employees will not be discharged, disciplined, or otherwise discriminated against because of taking leave under the FFCRA and filing a complaint or instituting a proceeding under or related to the FFCRA.

Please read the FFCRA Policy Guidelines below for details of these emergency benefits – including eligibility, qualifying reasons, duration and pay, and other key guidelines.

## FFCRA Policy Guidelines

**What is the effective date of these benefits?** *These federally mandated emergency benefits became effective April 17, 2020. The policy was updated May 31, 2020; January 25, 2021; March 31, 2021; and May 26, 2021 – the last update extends EPSL/EFML availability through September 30, 2021.*

### 1. EMERGENCY PAID SICK LEAVE (EPSL)

<b>Who is covered?</b> Port Authority and PATH full-time and part-time employees, including project, probationary, and temporary employees, paid interns, and all essential employees.	
<b>Eligibility</b> – Employee is eligible upon hire.	
<b>Duration</b> – 2 workweeks, capped at 80 hours (or a part-time employee’s two-week equivalent)	
Qualifying Reasons	Percentage of Pay
1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 (and is unable to work remotely)	Full regular pay
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 (and is unable to work remotely)	
3. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis (and is unable to work remotely)	
4. The employee is caring for an individual who is quarantined or in isolation (and is unable to work remotely)	
5. The employee is caring for their child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 reasons (and is unable to work remotely)	
6. The employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services (and is unable to work remotely)	
7. The employee is experiencing side effects after receiving a COVID-19 vaccine (and is unable to work remotely)	

## 2. EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION (EFML)

<b>Who is covered?</b> Port Authority and PATH full-time and part-time employees, including project, probationary and temporary employees and paid interns. EFML applies on a case-by-case basis for essential employees.*	
<b>Eligibility</b> – Employee is eligible upon hire.	
<b>Duration</b> – 12 workweeks of EFML – first 2 weeks unpaid, remaining 10 weeks paid	
Qualifying Reason	Percentage of Pay
The employee is caring for their child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 reasons (and is unable to work remotely)	<ul style="list-style-type: none"> <li>• <b>First 2 weeks</b> are unpaid, unless employee opts to use Emergency Paid Sick Leave or their agency paid time options (e.g., vacation, personal leave, compensatory time).</li> <li>• <b>Remaining 10 weeks</b> are paid at 2/3 of employee’s regular pay, capped at \$200 per full day of work. <b>However</b>, an employee may use their paid time options to remain at full pay (e.g., an employee may use 2 weeks of vacation at full pay before going to 2/3 regular pay, capped at \$200 per full day of work, for the remaining 8 weeks).</li> </ul>

\* EFML will apply to essential employees as determined by a Department Director or Chief with concurrence by the Chief Human Capital, based on (1) whether an employee’s leave would result in the loss of a key employee (or employees) that possess the skills, knowledge or responsibilities that are essential for maintaining the financial health or operational capability of the business, or (2) whether an employee’s leave would result in the business having an insufficient workforce, resulting in the business being unable to operate, even at a minimal capacity.

### Other Important Policy Guidelines:

- Employees **must** apply for Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion (EFML) by submitting the [FFCRA Application](#) and required documentation.
- EPSL and EFML are available when employees cannot work (including working remotely) because of one or more of the qualifying reasons set forth above. If employees are well enough and can work remotely, they will **not need to use** EPSL or EFML.
- Employees cannot exceed the total duration of each benefit – 2 weeks (capped at 80 hours) for EPSL, and 12 weeks for EFML. The extension of the FFCRA policy – effective through September 30, 2021 – **does not** increase or reset an employee’s original EPSL or EFML allotments.
- As it relates to school/childcare closures, to qualify, an employee’s child must be under 18 years old, **OR** 18 years old or older and incapable of self-care because of mental or physical disability.
- A school or place of care is considered “closed” when an employee’s child is not permitted to enter the physical location. The school is considered “closed” on days when your child is not permitted to attend school in person and is required to take classes virtually.
  - If the school or place of care is conducting in-person classes but has allowed parents to keep the child home and take classes virtually, and the employee voluntarily chooses to keep their child home, EPSL/EFML will not be available.
- If an employee is experiencing other life events (e.g., self-care of employee’s own serious health condition, or care of a family member with a serious health condition), they may be eligible for standard Family and Medical Leave (FML) and should apply following the standard application

process. In some cases, a COVID-19 illness may also qualify as a serious health condition for purposes of standard FML.

- Any time taken for an FML qualifying reason, including a COVID-19 related reason (EFML), counts toward an employee's total 12 workweek FML allotment in a rolling 12-month period.
- EPSL and EFML may be used intermittently in certain situations. In accordance with guidance issued by the DOL, employees must work with their Manager/Supervisor to establish an intermittent arrangement that achieves flexibility and meets the needs of the employee and the agency's mission.
  - Employees who are working remotely may use EPSL and EFML intermittently for any of the qualifying reasons outlined for each program.
  - Employees who cannot work remotely may use EPSL and EFML intermittently to care for a child due to school/childcare closures related to COVID-19.
  - Except for the reason of caring for their child due to school/childcare closures, employees who cannot work remotely must use EPSL in full day increments, and once they begin their leave, they must continue to take it each day until they either (1) use the full amount of EPSL or (2) no longer have a qualifying reason for taking EPSL.
- Employees who require additional time off due to COVID-19 illness (symptomatic, positive test, or side effects after receiving a COVID-19 vaccine), **or** due to required quarantine because of a verified exposure (no symptoms), may be eligible for additional emergency leave options. Please review the Port Authority's [COVID-19 Leave Enhancements](#).

### **Important Reminder About Zero-Tolerance for Discrimination:**

- Our agency has a longstanding commitment to diversity and inclusion, and to creating a discrimination-free environment. We honor diversity and we celebrate it.
- Our [Employee Code of Ethics](#) states: "There is, simply, no place for discrimination in our workplace or in our actions. Violence, or any threatening or abusive behavior, is wholly and entirely inconsistent with who we are. Violation of the law or this Code is a serious matter."
- We ask employees to stay vigilant and report any incidents of concern through the appropriate channels.
- To report any bias incidents, employees are asked to contact the Office of Equal Employment Opportunity (EEO) Compliance via email at [EEO@panynj.gov](mailto:EEO@panynj.gov) or phone at 212-435-6323. To learn more about the agency's Office of EEO Compliance, please visit the office's [eNet page](#).