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Christina Coranoto- Conklin  
*HR, Director*

## County of Sussex

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To: Sussex County Employees  
From: Gregory Poff, County Administrator  
Christina Conklin, HR Director, Office of Employee Services  
Re: Telecommuting and Leave Policies During Pandemic  
Date: April 6, 2020

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This policy shall apply to all County employees and supersedes the March 14 and March 17 policies that were previously issued related to leave for COVID-19 related issues, including school closures, working remotely and essential/non-essential employees and services.

Through Executive Order 107, Governor Murphy established a statewide policy that residents are to maintain social distancing which includes, where practical, remaining in one's residence. The Executive Order further provided that if individuals can work remotely, it is the state policy to have work performed from an individual's residence or other remote location where appropriate social distancing can be maintained. The State Executive Order shut down all non-essential businesses, but state, county and local governments must continue to provide operations. The state policy and CSC guidance is clear that continued operations should be maintained in a safe fashion, remotely, to the extent practical, otherwise, safely, in person.

Sussex County will, consistent with Executive Order 107, maintain as many governmental operations as possible with the least amount of disruption to its public services as can be safely provided. It therefore issues this policy regarding employees' work obligations and duties.

As a general policy, County employees will be required to engage in their regular work activities in order to be in a paid status. Those employees who cannot or do not work will be allowed to use their paid time off to remain in a paid status.

### **Work From Remote Location**

Supervisors can determine that many duties are amenable to being performed from remote locations through use of VMware, email and other electronic services. Therefore, those employees who can perform their job functions effectively and efficiently from a remote location will be required to do so, regardless of designation as essential or non-essential staff. This mandate will include if you are home for child care purposes as a result of school closures; see more information below. To be clear, if an employee can work from home, he/she must do so.

To the extent there are functions and job duties that cannot be performed from a remote location, such duties shall be identified with Department and Division Heads to determine an appropriate manner in

which those services can be performed and/or determination as to whether such work can be excused during the period of pandemic.

Any employees who are able to work from a remote location but choose not to, for whatever reason, shall not remain in a paid status during the pandemic. Rather, they may use paid time off (sick, vacation, personal, comp) if they wish to remain in a paid status while not working.

### **Work Not Conducive to being Performed from Remote Location**

Any employees whose work cannot be performed from a remote location will be required to report to work, as may be determined by the Department or Division head, in order to remain in a paid status. Division and Department Heads will identify work that can and should be performed during the pandemic. There is some work that is essential to be performed even while the pandemic is ongoing. Similarly, there is work that is not essential to be performed while the pandemic is ongoing.

#### *Essential Services*

Division and Department Heads will identify what duties and operations are necessary to be performed while the pandemic is ongoing and identify the minimum number of people that must engage in work activities to perform such tasks while maintaining safe operations, including social distancing. In some instances, this will necessarily result in utilizing less staff and modified schedules.

Those employees who perform these essential functions shall be offered, on a voluntary basis, an opportunity to continue working the essential functions on site. So long as the Department and Division have sufficient volunteers to cover the necessary work and duties that must continue while the pandemic is ongoing, only those employees who volunteer for the work will be required to continue working at their jobsite. If the Department or Division does not have sufficient volunteers to cover the staffing requirements, then the County shall require identified employees to report for work and they will be paid for such work. Assuming all other skills and abilities are equal for a position, these vacancies shall be filled in reverse seniority order starting with the least senior employee in the department and progressing to the most senior employee. Once the vacancies are filled, then the next time vacancies exist, the vacancies will be filled based upon the same reverse seniority list starting with the individual immediately more senior than the person who filled the last prior vacancy. When the most senior employee is reached, then the list will begin with the least senior employee again. Any essential employee who does not work will not be paid. Such employees will be able to use paid time off (sick, vacation, personal, comp) if they wish to remain in a paid status while not working.

If a department has more volunteers than it can safely accommodate, then it will seek to stagger shifts or take other measures which will allow all employees who volunteer to work to be able to work in a safe and secure environment. If safe work conditions cannot be provided to all of the volunteers, then the department will allow employees, assuming all other skills and abilities are equal for a position, starting with the most senior employee in the department and progressing to the least senior employee in the department to remain out of work in an “on-call” status. These employees must remain ready, willing and able to work if the department identifies work they can perform safely either during their regularly scheduled shift or during a staggered or modified shift. If no work can be assigned to “on-call” employees, they will nonetheless be paid for the shift. If “on-call” employees need to be identified for a subsequent shift, then the individual immediately less senior in the department to the least senior “on-call” employee from the prior shift which assigned “on-call” employees will be the first placed into the “on-call” status followed by the individual less senior to the individual so assigned. Once the least senior employee is placed on the “on-call” status, the most senior individual will be assigned to be “on-call” and the progression will continue.

In the event an emergency situation arises, the County may require additional employees to work without regard to whether such employees volunteered to work. All work performed will be compensated, and employees will not be required to use paid time off during a period of mandatory work.

### *Non-Essential Services*

Division and Department Heads who oversee non-essential operations will identify what work can be done safely on site while utilizing social distancing. Employees who perform non-essential duties will be notified of the number of employees who can be accommodated to continue working in the non-essential operations, and the employees will be given the opportunity to volunteer for such work. Any employee who does not volunteer to work will not be paid. Such employees will be able to use paid time off (sick, vacation, personal, comp) if they wish to remain in a paid status while not working.

### **Employees Out For Child Care**

Any employees, whether essential or not, whose children need to be cared for due to school or childcare closings shall be allowed to do so. Any employee who performs work that can be done from a remote location will be required to continue performing their job duties. If an employee who is out due to childcare who can perform their work remotely but refuses to work, then the employee will not be paid. However, such employees will be able to use paid time off (sick, vacation, personal, comp) if they wish to remain in a paid status while not working.

Any employee, who performs work that cannot be done from a remote location and/or must report to work in order to perform their job duties will be excused from their work requirements and will be able to remain in a paid status during the period in which Executive Order 107 remains in effect. Employees shall be placed on Emergency Sick Leave and Emergency FMLA, if eligible, but paid their full salary while during the period they need to care for a child out of school due to a COVID-19 closure but will be paid his/her full pay. If an employee who falls into this category would either prefer to work, or use their available leave time, they may do so, rather than be placed on FMLA. If an employee has previously exhausted their FMLA leave in the previous 12 months, they will only be entitled to the two (2) weeks of Emergency Leave as they are not eligible for additional leave under the FMLA. These employees will not be provided their full pay during their absence unless they use their paid time off.

### **No Retaliation for Election**

There will be no penalty for any employee election. Should an employee elect to remain out of work and use paid time off, use of the paid time off will not be counted toward excessive sick leave, etc. Further, health and other benefits will be maintained during the period, but ch78 contributions will be required.

### **Illness Directly Affecting Employees**

In an effort to keep everyone as safe as possible, employees who have been exposed to or diagnosed with the COVID-19 virus will not be permitted to enter the workplace (all County locations) until they are medically cleared (those with COVID-19) or until the expiration of the recommended 14-day period of quarantine from the point of last exposure (only for those exposed to COVID-19).

If an employee is: 1) medically diagnosed with COVID-19, or 2) Directed by a medical professional or government agency to self-isolate or quarantine due to suspicion of exposure to or

diagnosis with COVID- 19, and /or 3) Undergoing a period of self-quarantine or isolation pursuant to public health assessment recommendations, the employee will not be required to utilize accumulated leave time for their absence if they provide the documentation verifying the COVID-19 diagnosis, suspicion or recommendation to self- isolate or quarantine as soon as reasonably practical. Please notify the County immediately if you fall into any of the mentioned categories so that the County can take immediate steps to assess the risk of spread.

Any documentation the employee may have related to COVID-19 should be provided to the Office of Employee Services only to ensure confidentiality=. If an employee does not provide the required documentation to Employee Services, then the employee will be required to utilize their own benefit leave time to cover the period of absence.

### **Illness Affecting the Family of an Employee**

If the employee is absent due to the employees need to care for an immediate family member as defined by County policy, who: 1) has been diagnosed with COVID-19; 2) was directed by a medical professional or government agency to self-isolate or quarantine due to the suspicion of exposure to or diagnosis with COVID-19; and/or 3) Is undergoing a period of self-quarantine or isolation pursuant to public health assessment recommendations, the employee will not be required to utilize accumulated leave time for their absence if they provide the documentation verifying the COVID-19 diagnosis, suspicion or recommendation to self-isolate or quarantine as soon as reasonably practical.

Any documentation the employee may have related to COVID-19 should be provided to the Office of Employee Services only to ensure confidentiality. If an employee does not provide the required documentation to Employee Services, then the employee will be required to utilize their own benefit leave time to cover the period of absence.

### **Pre-Existing Condition Deemed Dangerous Due to COVID-19**

An employee who has a pre-existing condition which a medical professional certifies causes it to be unsafe for the employee to work at the worksite and the employee is unable to perform his/her work remotely, then the employee may be excused from work and remain in a paid status. However, the employee will be required to submit a medical certification providing that he/she has a medical condition which causes the CDC to deem the individual to be at high risk of serious illness or death if they contract COVID-19, then such employee shall be placed on a paid leave of absence until the mandates in EO 107 (e.g., remote working) are lifted. The County retains the right to consult with its own medical professional to confirm that the employee's medical provider's assessment of the employee being at high risk of serious illness or death if the employee contracts COVID-19. If the County's medical professional does not confirm the employee's medical condition, then a third independent medical professional shall be consulted whose opinion shall be binding on the issue.