

# Supreme Court of Kentucky

2021-32

## AMENDED ORDER

**IN RE: COVID-19 VACCINE LEAVE, COVID-19 TESTING LEAVE, AND EMERGENCY SICK LEAVE FOR KENTUCKY COURT OF JUSTICE EMPLOYEES**

To support continued efforts to vaccinate Kentuckians against COVID-19, promote testing among employees, and provide emergency sick leave for vaccinated employees who test positive for COVID-19, the Supreme Court, under Section 116 of the Constitution and Supreme Court Rule 1.010, hereby orders that Administrative Order 2021-21 is amended as follows:

**A. COVID-19 Vaccine Leave**

1. An employee is eligible to claim COVID-19 Vaccine Leave if he or she:
  - a. Is scheduled to and actually works the day that the COVID-19 vaccine dose, including a booster, is obtained; and
  - b. Obtains prior approval from his or her appointing authority if the vaccine dose is obtained during scheduled work hours.
2. An eligible employee may receive up to two hours of paid leave to obtain a COVID-19 vaccine dose, including a booster, if he or she provides documentation of the COVID-19 vaccine dose to his or her appointing authority during the pay period in which the leave is claimed.
3. Employees may claim up to two hours of COVID-19 Vaccine Leave to obtain a COVID-19 vaccine per dose in a two-dose series, for no more than a total of four hours. Employees may claim up to two hours of COVID-19 Vaccine Leave to obtain a COVID-19 vaccine booster.
4. The appointing authority may specify the time in which the eligible employee is approved to be absent from work to obtain a COVID-19 vaccine dose, including a booster.
5. Eligible employees who receive a vaccine dose, including a booster, will be credited with compensatory time for any unused COVID-19 Vaccine Leave or if he or she does not miss any work hours.

6. An employee who attempts to get a COVID-19 vaccine dose, including a booster, and is turned away by the vaccine provider will be excused for the time spent attempting to obtain the vaccine dose but will not be eligible to claim COVID-19 Vaccine Leave that day and must provide proof to his or her appointing authority of the attempt to obtain the COVID-19 vaccine dose.
7. Any employee who claims COVID-19 Vaccine Leave but does not actually receive a COVID-19 vaccine dose, including a booster, on the day he or she has claimed Leave may be subject to disciplinary action, up to and including dismissal.

**B. COVID-19 Testing Leave**

1. An employee is eligible to claim COVID-19 Testing Leave if he or she:
  - a. Works some hours in-office each week;
  - b. Is scheduled to and actually works the day that the testing is obtained; and
  - c. Obtains prior approval from his or her appointing authority if testing is obtained during scheduled work hours.
2. Employees may claim up to one hour of COVID-19 Testing Leave to obtain a COVID-19 test, on no more than two occasions during a calendar month.
3. An eligible employee must provide documentation of the testing to his or her appointing authority during the pay period in which COVID-19 Testing Leave is claimed.
4. The appointing authority may specify the time in which the eligible employee is approved to be absent from work to obtain a COVID-19 test.
5. Eligible employees who obtain a COVID-19 test will be credited with compensatory time for any unused COVID-19 Testing Leave or if he or she does not miss any work hours.
6. An employee who attempts to get a COVID-19 test and is turned away by the testing center will be excused for the time spent attempting to be tested but will not qualify for COVID-19 Testing Leave that day and must provide proof to his or her appointing authority of the attempt to be tested.

7. Any employee who claims COVID-19 Testing Leave shall be subject to disciplinary action, up to and including dismissal, if he or she did not obtain COVID-19 testing on the day he or she has claimed the Leave.

**C. Emergency Sick Leave (EMSL)**

1. An employee is eligible to claim Emergency Sick Leave (EMSL) if he or she:
  - a. Has either received a COVID-19 vaccine (or at least the first dose in a series) or an accommodation from the AOC Department of Human Resources; and
  - b. Is required to isolate based on his or her positive COVID-19 test result; and
  - c. Is unable to telework either due to the nature of his or her job duties or the severity of his or her COVID-19 symptoms.
2. To claim EMSL, an employee must submit the following documentation to his or her appointing authority:
  - a. Proof of vaccination (full or partial), by way of a vaccination card, or an ADA accommodation from the AOC Department of Human Resources; and
  - b. His or her positive COVID-19 test result.
3. The appointing authority must submit the employee's documentation to the AOC Department of Human Resources via email at [positivecovidtest@kycourts.net](mailto:positivecovidtest@kycourts.net). All documentation shall be confidentially maintained by the AOC Department of Human Resources.
4. EMSL hours pursuant to this Section may be claimed beginning July 29, 2021.
5. No employee shall claim more than 75 hours (10 days) of EMSL pursuant to this Section.
6. An employee shall claim only as many EMSL hours as he or she was scheduled to work on a given day, but in no event shall an employee claim more than 7.5 hours for a single work day.
7. EMSL hours do not have to be claimed consecutively.

8. A full-time employee who claims EMSL but does not have at least 100 work hours and/or other paid leave in a month will continue to receive health benefits and continue to accrue sick leave and months of service but will not accrue annual leave.
9. Employees who are off work and claim EMSL must observe and strictly follow all recommendations of the Centers for Disease Control and Prevention (CDC) and their local health department associated with isolation, including, but not limited to, restrictions on travel and public activities. Failure to follow these recommendations may result in the loss of previously approved EMSL hours.
10. EMSL shall not be claimed for the purpose of providing child or dependent care related to COVID-19.
11. Prior to returning to work, an employee may be required to provide to his or her appointing authority any or all of the following, based upon his or her individual circumstances:
  - a. A negative COVID-19 test result; and/or
  - b. A release from quarantine or isolation by a medical professional or local health department; and/or
  - c. A statement certifying that he or she has been symptom free for at least 72 hours.
12. An employee who, because of a disability or a sincerely held religious belief, practice, or observance, has not been vaccinated for COVID-19, may request an accommodation through the AOC Department of Human Resources, as provided in Section 3.04 of the KCOJ Personnel Policies.
13. Any employee who submits documentation or a statement pursuant to this Section, which is determined to be false or misrepresentative in any way, may be subject to disciplinary action up to and including dismissal.

This Order shall be effective upon entry and until further Order of this Court.

Entered this 3rd day of September 2021.

  
CHIEF JUSTICE

All sitting; all concur.