pennsylvania
OFFICE OF ADMINISTRATION

December 29, 2020

Hank McNair, Interim President
Pennsylvania State Corrections Officers Association
2421 N. Front Street
Harrisburg, PA 17110-1110

RE: COVID-19 Emergency Paid Sick Leave
Commencing January 1, 2021

Dear Mr. McNair:

The Commonwealth continues to be committed to supporting employees who are impacted by the COVID-19 pandemic while also maintaining the operational needs of agencies to provide services to Pennsylvania citizens. The Families First Coronavirus Response Act of 2020 (FFCRA) provides emergency paid sick leave under the Emergency Paid Sick Leave Act (EPSLA) and expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act (EFMLEA) for certain employees impacted by COVID-19. HR-WS002, issued by the Commonwealth on April 1, 2020, provided guidance on the use of leave under EPSLA and EFMLEA through December 31, 2020. As the parties are aware, both the EPSLA and EFMLEA expire on December 31, 2020.

Toward the goal of continuing to support our workforce through this pandemic, the Commonwealth will provide to eligible employees in agencies under the Governor's jurisdiction up to ten (10) days of emergency paid sick leave (ES) beginning January 1, 2021 through either December 31, 2021 or the expiration of Governor Wolf's Proclamation of Disaster Emergency (whichever occurs first), if the federal government fails to extend or amend EPSLA to provide additional leave entitlements in 2021. Should any federal or state legislation be passed that provides for an additional COVID-19-related paid leave entitlement during 2021, ES Leave under this side letter shall end on the effective date of that new legislation. The ES Leave provided for in this side letter is not available for qualifying events related to childcare as was available to a limited number of eligible employees under the FFCRA. Eligibility for this new leave is as follows:

1) Eligibility

(a) ES Leave is available to an eligible employee if the employee is unable to work or telework due to the qualifying events as outlined below, and the employee is able to provide documentation, as soon as practicable, to establish the qualifying event.

(b) ES Leave is not available if the employee's worksite is closed and the employee is unable to work or telework.

(c) Permanent ('P'), Nonpermanent ('N'), Official Board Members ('E') and Per Unit ('U') employees are eligible employees for ES Leave, except as otherwise provided

for in this side letter. Employees working as Annuitants ('A') are not eligible for ES Leave under any circumstance.

(d) ES Leave is available to an otherwise eligible employee on their first day of employment with the Commonwealth.

(e) Use by an employee of EPSLA leave in 2020 does not disqualify the employee from use of ES Leave available pursuant to this side letter if the employee is otherwise eligible due to a qualifying event in 2021.

(f) Benefit eligibility varies for full-time and part-time employees.

i. Full-time employees, defined as those who work 37.5 or 40 hours per week, are eligible for up to ten (10) days (75/80 hours) of ES Leave.

ii. Part-time employees, defined as those who work less than 37.5 or 40 hours per week, are eligible for up to ten (10) days of ES Leave. Part-time employees are entitled to leave for their average number of normally worked hours in a two-week period. If the normal scheduled hours are unknown, or vary in a two-week period, the number of hours of leave to which a part-time employee is entitled shall be determined based on a six (6)-month average of daily hours. If the employee has been employed for less than six (6) months, the number of hours shall be determined based on the average daily hours from the date of hire through the last workday prior to the first day of ES Leave.

2) Qualifying Events

(a) ES Leave is capped at ten (10) days total regardless of whether the employee has one or more qualifying events as provided for below:

(1) Employee is subject to a Federal, State, or local quarantine or isolation order, issued by a governmental entity, related to COVID-19.

i. Employee shall receive up to ten (10) days of ES Leave.

ii. Employee shall receive their regular hourly rate of pay, up to $511 per day or $5,110 in total.

iii. Leave under criterion a.1(i) must be used in full consecutive workdays until the qualifying event no longer exists; except when an employee is required to leave the worksite prior to the end of their work shift, leave may be used to cover the hours remaining in the work shift.

(2) Employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

i. Employee shall receive up to ten (10) days of ES Leave

ii. Employee shall receive their regular hourly rate of pay, up to $511 per day or $5,110 in total.

iii. Leave under criterion a.2(i) must be used in full consecutive workdays until the qualifying event no longer exists; except when an employee is required to leave the worksite prior to the end of their work shift, leave may be used to cover the hours remaining in the work shift.

(3) Employee is experiencing symptoms of COVID-19 and is affirmatively seeking a medical diagnosis.

i. Employee shall receive up to ten (10) days of ES Leave.

ii. Employee shall receive their regular hourly rate of pay, up to $511 per day or $5,110 in total.

(4) Employee is caring for an individual who is subject to an order as described in criterion a.1(i) or advised to self-quarantine as described in criterion a.2(i), above.

i. Employee shall receive up to ten (10) days of ES Leave.

ii. Employee shall receive 66.67% of their regular hourly rate of pay, up to $200 per day or $2,000 in total.

iii. Leave under criterion a.4(i) must be used in full consecutive workdays until the qualifying event no longer exists; except when an employee is required to leave the worksite prior to the end of their work shift, leave may be used to cover the hours remaining in the work shift.

3) Forfeiture and Expiration of Leave

(a) Employees are not entitled to reimbursement for any unused ES Leave upon their termination, resignation, retirement, or other separation from employment.

(b) ES Leave does not carry-over from one year to the next and expires on December 31, 2021 or the date the Proclamation of Disaster Emergency expires, whichever occurs first.

(c) If, subsequent to the execution of this side letter, any federal or state legislation is passed that provides for an additional COVID-19-related paid leave entitlement during 2021, ES Leave under this side letter shall end on the effective date of that new legislation.

4) Paid and Unpaid Absences

(a) Employees on an approved paid or unpaid absence on January 1, 2021, may be eligible to utilize ES Leave outlined in this side letter beginning on January 1, 2021 provided the employee is on leave due to a Qualifying Event under criteria 2.a(1) through 2.a(4) above and is otherwise available for work.

In addition to the ES leave provided above, the Commonwealth shall also provide up to ten (10) days of administrative leave (AL) beginning January 1, 2021 through either December 31, 2021 or the expiration of the Proclamation of Disaster Emergency (whichever occurs first), to those employees in agencies under the Governor's jurisdiction who have exhausted all ES Leave entitlements provided herein, as well as all earned and anticipated annual and sick leave entitlements. Eligibility for said administrative leave shall be the same as that outlined above for ES Leave as identified in criteria (1)-(4) above.

It is distinctly understood that this agreement shall not set precedent and is without prejudice to either party's position on any current or future matters. Please indicate your concurrence with the above understanding by signing below and returning a copy of the executed agreement to this office.

Sincerely,

John P. Gasdaska, Director
Office of Employee Relations & Workforce Support

H. McNair 12/31/20

Hank McNair, Interim President Date
Pennsylvania State Corrections Officers Association

copy: Reid V. Walsh, Deputy Secretary, Human Resources & Management, OA
Ed Phillips, Director, Bureau of Employee Relations, OA
Pam Andrews, Bureau of Employee Benefits, OA