

Personnel Policy: Family First Coronavirus Response Act

1) PURPOSE. The purpose of this policy is to provide an overview of the Emergency Paid Sick Leave Act (EPSLA) and Emergency Family and Medical Leave Expansion Act (EFMLEA) for employees while the employee or his/her family members are impacted by COVID-19. The EFMLEA and EPSLA are both within the scope of what is known as the Families First Coronavirus Response Act (the "Act"). The Act and this policy will both take effect on April 1, 2020, with a sunset date of December 31, 2020.

2) The Emergency Paid Sick Leave Act (EPSLA). Provides a limited term emergency paid sick leave benefit outside of the FMLA or EFMLEA. This Emergency Paid Sick Leave is in addition to the employee's current sick leave accrual.

a. Employee eligibility. All employees actively employed by the City. Pursuant to the Act, the City may exclude Emergency First Responders from this benefit. Emergency first responders will be excluded from this benefit, but allowed to receive City benefits as outlined in section (4) of this policy.

b. Qualifications. The employee must be unable to work or telecommute because:

1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;

2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;

3) The employee is experiencing symptoms of the COVID-19 virus and is seeking medical diagnosis from an appropriate health care provider;

4) The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in subparagraph (2).

5) The employee is caring for a son or daughter of such employee because the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.

6) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Service in consultation with the Secretary of the Treasury and the Secretary of Labor.

c. Pay During Leave. The amount of Emergency Paid Sick Leave available to employees is limited as follows:

1) Full-time employees will be eligible for 80 hours of Emergency Paid Sick Leave.

2) Regular, Part-time employees will be pro-rated based upon their regular hours of work.

3) Employees who work a variable work schedule, the average bi-weekly hours of work over the preceding six-month period will be utilized.

The actual pay to which an employee will be as follows:

1. If absent due to reasons identified in subparagraphs 1), 2), 3), 4), 5) or 6) under Section 2b. Qualifications. The employee will be entitled to:

a. 100% of his/her regular hourly rate of pay (as long as in excess of minimum wage) for the hours of work missed.

b. Full time employees are subject to the cap of \$511 per day, to a maximum aggregate payment of \$5,110.

c. Part time employees are subject to the cap of \$200 per day, \$2,000 in the aggregate.

d. Benefits During Leave. Benefits for an employee on Emergency Paid Sick Leave will continue as if the employee is actively working.

e. Procedures for Requesting Leave and Certification. The Emergency Paid Sick Leave Act requires that the employee give notice to the employer of the desire to use the available Emergency Paid Sick Leave. Notice must be given to the employer no later than the first workday (or portion of such workday) that the employee receives Emergency Paid Sick Leave. Please refer to the procedures as set forth in Section (3f). Procedure for Requesting Leave and Certification.

f. Return to Work. Employees will not be required to provide a return-to-work notice unless specifically requested by the Department Head or City Administrator. Employees who experience COVID-19 virus symptoms should be symptom free for 72-hours prior to returning to work.

g. Enforcement. Nothing in this provision shall be construed in any way to diminish the rights or benefits that an employee is entitled to under any law, collective bargaining agreement, or existing City policy. An employee is encouraged to consult with their Department Head regarding any questions or concerns.

An employee may not carry over any unused Emergency Paid Sick Leave. Further, upon an employee's separation from employment, any unused Emergency Paid Sick Leave is forfeited. Emergency Paid Sick Leave expires December 31, 2020.

3) Emergency Family and Medical Leave Expansion Act (EFMLEA)

a. Employee eligibility. Employed by the City for at least 30 calendar days prior to taking leave. Pursuant to the Act, the City may exclude Emergency First

Responders from this benefit. Emergency first responders will be excluded from this benefit, but allowed to receive City benefits as outlined in section (4).

b. Qualifications. Employee is unable to work or telecommute in order to care for a son or daughter of such employee because the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable due to COVID -19 precautions.

c. Pay During Leave. The EFMLEA provides for time away from work for up to 12 weeks. The first ten (10) work days of EFMLEA leave is unpaid, unless the employee has available accrued vacation, personal or sick leave (including sick leave under EPSLA under Section (2) which can be substituted for the otherwise unpaid time. The City will not require the employee to substitute pay for the first 10 days of unpaid leave. After the 10th unpaid work day, the employee will be eligible for pay from the City equal to 2/3 of the employee's regular rate of pay for the remainder of the available FMLA leave associated with the qualifying COVID-19 reason.

For full time employees, the paid leave opportunity will be based on the regular rate of pay of the employee for the hours the employee would normally work. Part-time employees pay eligibility will be based on their regular hours worked per week.

An employee may be eligible for regular FMLA leave if they have a COVID-19 diagnosis and they meet the normal requirements of the FMLA. An employee who is not ill but merely quarantined because of coming into contact with COVID-19 would not be eligible for EFMLEA or regular FMLA.

Employer Paid FMLA leave is allowed **only** for the reason of closure of the child's school or childcare and need to provide child care due to the public health emergency and not allowed for other FMLA reasons.

It is important to note that while an employee is entitled to 12 weeks of leave under the EFMLEA, the length of the leave is reduced by any FMLA Leave previously taken by the employee – this is not a separate 12 week entitlement. In other words, the Emergency Leave for childcare purposes is automatically reduced by the amount of leave an employee has already taken in the current administrative year, without regard to the reason for the previous leave.

d. Benefits During Leave. Benefits for an employee using EFMLEA leave will be applied in the same manner as benefits under Federal and State Family and Medical Leave.

e. Employee Status after Leave. The FMLA's job protected leave requirements and anti-retaliation provisions apply to EFMLEA scenarios.

f. Procedure for Requesting Leave and Certification. Employees shall complete a COVID-19 Personal Leave Form. Forms can be requested by calling the

employee's Department Head, emailing the Department Head or printing the form from the City website.

The City may require additional documentation in support of your EFMLEA leave by asking for a notice of closure or unavailability from your child's school, place of care, or childcare provider, including a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to you from an employee or official of the school, place of care, or child care provider.

g. Return to Work. Employees will not be required to provide a return-to-work notice unless specifically requested by their Department Head or City Administrator.

h. Enforcement. Nothing in this provision shall be construed to in any way to diminish the rights or benefits that an employee is entitled to under any law, collective bargaining agreement, or existing City policy. An employee is encouraged to consult with their Department Head or City Administrator regarding any questions or concerns.

4) Emergency First Responders Paid Sick Leave Bank. The City is excluding Emergency First Responders from the Family First Coronavirus Response Act benefits provided under Sections (2) and (3), but in order to balance the needs of our Emergency First Responders and the need to serve the public the City is creating a paid sick leave bank for Emergency First Responders.

a. Emergency First Responders. Per resolution 1452 Emergency First Responders are defined as.: *law enforcement, EMS, and firefighters; building inspectors; emergency management; housing and shelter personnel; infrastructure work including building management and maintenance, custodial services, transportation related work include road construction and maintenance; water and waste operations; any utilities operations; communications positions, and all support positions associated with such positions.*

b. Qualifications. Emergency First Responders must be unable to work or telecommute because:

- 1) The employee is experiencing symptoms of COVID-19 and is seeking medical diagnosis from an appropriate health care provider;
- 2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- 3) The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Service in consultation with the Secretary of the Treasury and the Secretary of Labor.

c. Paid Sick Leave. The amount of Paid Sick Leave available to Emergency First Responders who meet the qualifications set forth in Section (4b) is limited to:

- 1) Full-time employees will be eligible for up to two weeks of their regular hours of work.
- 2) Regular, Part-time employees will be pro-rated based upon their regular hours of work and up to two weeks of the pro-rated leave.
- 3) Emergency First Responders will be asked to return as soon as they are cleared from a medical provider or based upon the guidelines of a public health official to return which may cause the amount of leave to be less than the Emergency First Responder's regular hours, or the prorated and variable amount over a two-week period.

An Emergency First Responder may be eligible for regular FMLA leave if they have a COVID-19 diagnosis or to care for an immediate family member with COVID-19 and they meet the normal requirements of the FMLA.

d. Eligibility and Qualifications for Leave Due to Childcare. Emergency First Responders who are 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) may be eligible for leave. The Department Head or their designee has the discretion to approve Leave Due to Childcare on a case-by-case basis based on the circumstances of the request and the needs of the department. The amount of leave is up to four weeks of paid sick leave and is calculated the same as in (4c) for full time and regular part time employees.

f. Procedure for Requesting Leave and Certification. Employees shall complete a COVID-19 Personal Leave Form. Forms can be requested by calling the employees Department Head, emailing their Department Head or printing the form from the City website.

f. Return to Work. Employees will not be required to provide a return-to-work notice. The return to work will be based on being cleared by a medical provider or based upon the guidelines of a public health official to return to work.

g. Duration of Emergency First Responder Paid Sick Leave Benefit. The duration of this benefit will run through June 15, 2020. This benefit may be amended or removed at any time with Common Council approval.

h. Enforcement. Nothing in this provision shall be construed to in any way to diminish the rights or benefits that an employee is entitled to under any law, collective bargaining agreement, or existing City policy. An employee is encouraged to consult with their Department Head or City Administrator regarding any questions or concern.