



COVID-19 SICK LEAVE, EMERGENCY FMLA, or VACATION PROCEDURES

This Procedure covers entitlements under the following federal and City authorized emergency leave and benefit provisions:

- I. EMERGENCY PAID SICK LEAVE ACT
- II. EMERGENCY FAMILY MEDICAL LEAVE EXPANSION ACT
- III. EMERGENCY SICK LEAVE AND VACATION ADVANCES

I. EMERGENCY PAID SICK LEAVE ACT

- A. **Authority:** The federal Families First Coronavirus Response Act (the “FFCRA”) effective April 1, 2020, and expiring on December 31, 2020.
- B. **Purpose:** To provide partial wage replacement for employees who are unable to work due to COVID-19 related impacts identified in Section D.1-6, below.
- C. **Eligible Employees:**
 - 1. All City and County of San Francisco employees.

D. Criteria for Federal Sick Leave Pay:

Emergency Sick Leave Pay (Pay Code ESP): Employees who are unable to work (or telecommute) due to:

- 1. a Federal, State or local quarantine or isolation order related to COVID-19
- 2. advice by a health care provider to self-quarantine due to concerns related to COVID-19
- 3. experiencing symptoms of COVID-19 and seeking a medical diagnosis
- 4. caring for an individual who is subject to a Federal, State or local quarantine or isolation order, or advised by a health care provider to self-quarantine due to concerns related to COVID-19
- 5. caring for a son or daughter if the school or place of care of the son or

daughter has been closed due to COVID-19 precautions

6. experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor
7. Leave taken for reasons #1, #2, #3,#4 or #6 must be taken continuously for up to two weeks, or until there is no longer a qualifying reason for the leave.

E. Paid Leave Requirement:

1. Up to 80 hours of paid sick leave for full-time employees
2. Prorated for part-time employees to an amount equal to the number of hours worked, on average, over a 2-week period
3. Employees may use this emergency paid sick leave before using other accrued leave.
4. Pay for reasons (1), (2), or (3) shall be at the employee's regular rate of pay, up to a maximum of \$511 per day or \$5,110 in the aggregate.
5. Pay for reasons (4), (5), or (6), shall be at 2/3 of the employee's regular rate of pay up to a maximum of \$200 per day or \$2,000 in the aggregate.

F. Procedure:

1. Employees must give notice that they are seeking to use paid sick leave under the FFCRA and should complete and return a SICK LEAVE, EMERGENCY FMLA, or VACATION REQUEST FORM (COVID-19). Departments may accept any equivalent request that includes the following:
 - a) Employee's name, DSW#, Contact Phone and Department
 - b) Reason for requesting leave, and supporting information sought on page 2 of the SICK LEAVE, EMERGENCY FMLA, or VACATION REQUEST FORM (COVID-19)
 - c) Absence dates requested
 - d) Accrued leave balances or federal pay entitlements to use during the leave
 - e) Whether the employee agrees to supplement partial pay under any federal pay entitlement with accrued leave balances
 - f) If requesting a sick leave or vacation advance, the request must include the Sick Leave and Vacation Advance Agreement language

- g) Employee signature and date on both sides of the leave request form, or electronic equivalent
- 2. Employees must submit the completed form to their supervisor, manager, or the department's human resources representative.
- 3. The department human resources representative shall review each COVID-19 related leave request and confirm: (1) that the employee meets the criteria for receiving paid sick leave under the act, and (2) how much sick leave pay to approve.
- 4. Emergency Paid Sick Leave (ESP) under the Act shall be coded on employee timesheets as instructed by the Controller's Office Payroll and Personnel Services Division.
- 5. The City will supplement Emergency Paid Sick Leave with available accrued leave balances to provide employees with 100% wage replacement only if the employee agrees to supplement. Employees may elect not to supplement with available accrued leave balances by checking the appropriate box and signing the SICK LEAVE or VACATION REQUEST FORM (COVID-19) or submitting an equivalent letter or email.
- 6. Employees who do not elect to supplement Emergency Paid Sick Leave may only receive pay as required under the Act and as outlined in Section E above.
- 7. If all accrued leave is exhausted, employees may use any sick leave or vacation advanced to supplement emergency sick leave under this provision.
- 8. Employees may not cash-out this benefit and must forfeit any unused Emergency Paid Sick Leave remaining at the earlier of the date of separation or effective December 31, 2020.

II. EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION ACT

A. Authority: The FFCRA, effective April 1, 2020, and expiring on December 31, 2020.

B. Purpose: To provide job protected leave and partial wage replacement benefits for employees who are unable to work due to COVID-19 related school or childcare provider closures.

C. Eligible Employees:

1. Employed at least 30 days before the leave start date. The 30 days need not be consecutive.
2. Have not have already otherwise exhausted 12 weeks of leave in the last 12 months under the FMLA.

D. Criteria for Leave:

Emergency Family Care Leave (Pay Code ESF): Employees are eligible for this paid leave if they meet the following criteria:

1. **Qualifying Reason:** Employees who are unable to work due to the need to: (a) care for a son or daughter under 18 years of age if the son or daughter's school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19-related reasons, or (b) care for an adult son or daughter (i.e., one who is 18 years of age or older), who (i) has a mental or physical disability, and (ii) is incapable of self-care because of that disability, when the son or daughter's care provider is unavailable due to COVID-19 related reasons.
2. **Qualifying Condition:** Telecommuting is not available or possible (employees who cannot work a full shift while providing childcare may take this leave).
3. **Maximum Entitlement:** 12-workweeks and includes all leave taken for any FMLA qualifying reason within the prior rolling 12-month period.
4. May be taken continuously or intermittently; however, departments have discretion to deny intermittent leave taken for school or childcare provider closures, and may require that leave be taken in 2-week increments.

E. Paid Leave Requirement:

1. The first two weeks of leave are unpaid, except the employee may elect to use available accrued leave (i.e. sick leave, vacation, floating holidays, compensatory time) to receive pay during this time.
2. Employees may elect to use Emergency Paid Sick Leave for the first two weeks.

3. Employees may not be required to use accrued leave for the first two weeks.
4. After two weeks, the City must provide paid leave for up to 10 weeks (based on the average number of hours an employee works each week) at 2/3 of the employee's regular rate of pay, up to a maximum of \$200 per day, or \$10,000 in aggregate.

F. Procedure:

1. Employees must give notice of the need for leave and should complete and return a SICK LEAVE, EMERGENCY FMLA, or VACATION REQUEST FORM (COVID-19). Leave and pay under this provision is not retroactive, consequently any leave requested under this provision will begin on or after April 1, 2020. Departments may accept any equivalent request that includes the following:
 - a) Employee's name, DSW#, Contact Phone and Department
 - b) Reason for requesting leave, and absence dates requested
 - c) Accrued leave balances or federal pay entitlements to use during the leave
 - d) Whether the employee agrees to supplement partial pay under any federal pay entitlement with accrued leave balances
 - e) If requesting a sick leave or vacation advance, the request must include the Sick Leave and Vacation Advance Agreement language
 - f) Employee signature and date, or electronic equivalent
2. Employees must submit the completed form, or an equivalent request, to their supervisor, manager, or the department's human resources representative.
3. The department human resources representative shall review each COVID-19 related leave request and confirm: (1) that the employee meets the criteria for taking job-protected leave under the act, and (2) how much leave will be designated as FMLA protected.

G. Responding to Emergency FMLA Leave Requests

1. Within 5 business days of receipt of notice of the need for leave, the department human resources representative must do one of the following:
 - a) If employee is not eligible due to not meeting the 30-day service requirement:

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- 1) Complete an FML-1 Notice of Eligibility, Rights and Responsibilities form and check the box for “COVID-19 School/Childcare Closure” in the center of the form
 - 2) Check the boxes for “You are not eligible for FMLA/CFRA protections for your leave, because,” and “COVID-19 Not employed 30 days”
 - 3) Sign the completed FML1 form, give the employee a copy, and retain a copy for the employee’s Personnel File.
- b) If employee is not eligible for expanded FMLA due to exhausting the 12-workweek entitlement for the applicable 12-month period:
- 1) Complete an FML-1 Notice of Eligibility, Rights and Responsibilities form and check the box for “COVID-19 School/Childcare Closure” in the center of the form
 - 2) Check the box for “You are not eligible because you have exhausted your FMLA entitlement”
 - 3) Sign the completed FML1 form, give the employee a copy, and retain a copy for the employee’s Personnel File.
- c) If employee is eligible and has not exhausted the 12-workweek entitlement for the applicable 12-month period:
- 1) Complete an FML-1 Notice of Eligibility, Rights and Responsibilities form and check the box for “COVID-19 School/Childcare Closure” in the center of the form
 - 2) Check the box for “You are eligible for FMLA/CFRA protections for your leave.”
 - 3) If requiring proof of school closure or childcare provider unavailability (not required during government imposed Shelter In Place Orders) check the box for “Other information needed . . . ” and specifically request a letter or notice from the child’s school or childcare provider regarding closure or unavailability for reasons related to the COVID-19 public health emergency.
 - 4) Sign the completed FML1 form, give the employee a copy, and retain a copy for the employee’s Personnel File

H. Designating Emergency FMLA Leave

1. Within 7 business days of receiving sufficient proof of a qualifying school closure or childcare provider unavailability to support a request for leave, or in conjunction with issuing the FML1, the department human resources representative shall issue a Notice of Determination (FML3) approving or denying the leave request.
2. If the leave is approved, the Notice of Determination must state the number of hours to be counted against the employee's FMLA entitlement.
3. The department human resources representative shall forward the signed and dated Notice of Determination to the employee and retain a copy in the employee's Personnel File.

I. Use of Accrued Leave and Required Pay

1. Employees may elect to use accrued leave to receive pay for the first two weeks, or employees may elect to receive Federal Emergency Sick Leave Pay for the first two weeks.
2. The City may not require employees to use accrued leave for the first two weeks of an emergency FMLA leave for a qualifying school closure or childcare provider unavailability
3. The City will provide paid emergency FMLA leave beginning after two weeks and continuing for up to 10 weeks. Employees will receive 2/3 of their regular pay, up to a cap of \$200 per day. The total amount paid to an employee may not exceed \$10,000 for the 10-week period unless the employee agrees to supplement with accrued leave balances.
4. The City will require employees to supplement emergency FMLA pay (ESF) with available accrued vacation, floating holidays and compensatory time, to provide employees with 100% wage replacement.
5. Employees may elect to supplement emergency FMLA pay (ESF) with accrued sick leave balances by checking the appropriate box on the SICK LEAVE, EMERGENCY FMLA, or VACATION REQUEST FORM (COVID-19) or submitting a letter or email.
6. Employees who do not elect to supplement Emergency Paid Sick Leave received during the first two weeks of an emergency FMLA leave will only receive pay during the leave as required under the Act and as set forth in item 3 above.

III. SICK LEAVE AND VACATION ADVANCES

- A. Authority:** This procedure will remain in effect under the Mayor’s February 26, 2020 Proclamation declaring a local emergency to exist in connection with the imminent spread within the City of COVID-19 (Proclamation), as supplemented by the Supplement to the Proclamation dated March 11, 2020. This procedure will cease to have effect by further Proclamations or acts by the Mayor declaring the end of the local emergency, or other action ending the local emergency.
- B. Purpose:** Protect the health of the City workforce and mitigate the financial impacts to City employees from COVID-19 related absences from work by advancing sick leave with pay or vacation to eligible City employees who are unable or do not want to be in the workplace due to COVID-19 illness or impacts.
- C. Eligible Employees:**
1. Employees must have a regular work schedule.
- D. Criteria for Leave Advancement:**

Sick Leave with Pay (pay code SLP): Employees are eligible for this leave advancement if they meet the following criteria:

1. Employees are unable to be in the workplace because of the COVID-19 public health emergency (e.g., employee or qualifying family member is diagnosed or has symptoms consistent with COVID-19, medical provider approved self-isolation to avoid exposure to COVID-19, or employee needs to provide childcare due to school closure from COVID-19); and
2. Telecommuting is not available (employees who are sick or caring for a sick qualifying individual are not expected to telecommute).
3. Employees have no remaining paid leave balances (including, but not limited to vacation, sick pay, compensatory time, floating holidays and in-lieu legal holidays)

Vacation (pay code VAP): Employees are eligible for this leave advancement if they meet the following criteria:

1. Employees do not want to be in the workplace because of the COVID-19 emergency (e.g., employee is concerned about exposure to COVID-19 at work or while commuting); and
2. Taking such time off is operationally feasible (i.e., must be approved by the

department) and telecommuting is not available.

3. Employees have no remaining paid leave balances except for paid sick leave (including, but not limited to vacation, compensatory time, floating holidays and in-lieu legal holidays)

F. Sick and Vacation Leave Advancement: The City may advance up to 80 hours of paid sick leave or vacation to eligible employees, based on criteria set by Human Resources Director. If the City advances sick pay or vacation to an employee, the employee will not accrue additional sick pay or vacation until the City has recovered the hours advanced (e.g., if an employee is advanced 40 hours of sick leave with pay, the employee will forgo earning the 4 regular hours of sick leave with pay per pay period for the next 10 pay periods).

G. Procedure: Employees must apply by submitting the “SICK LEAVE or VACATION ADVANCE – Employee Request and Agreement” form.

1. The employee must designate the type of leave requested, either sick or vacation leave, and describe the circumstance requiring leave.
2. The employee must submit the completed form to their supervisor, manager, or the department’s human resources representative.
3. The department human resources representative shall review each advance request and confirm that the employee meets the criteria for a leave advance for reasons related to COVID-19; has exhausted, or will exhaust, all accrued leave; and the employee lacks sufficient accrued paid leave to cover an absence related to COVID-19.
4. The department personnel representative shall forward the Employee Request and Agreement to the Appointing Officer, or designee, for approval.
5. Upon approval, the personnel representative shall notify the employee that the request has been approved and the type and amount of paid leave advance approved.
6. The total amount of sick leave or vacation leave advanced may not exceed eighty (80) hours for COVID-19 related illness or impacts and will be prorated for employees with less than a full time schedule (e.g., if an employee works a regular 20 hour a week schedule, they may receive up to 40 hours).

H. Reimbursement: The employee must acknowledge a responsibility and agree to

repay sick leave and/or vacation leave advanced in the following order:

1. Forgoing leave accruals, so that employee will not accrue additional sick or vacation leave, as applicable, until the City has recovered the hours advanced (e.g., if an employee is advanced 40 hours of SLP, the employee will forgo earning the 4 regular hours of SLP per pay period for the next 10 pay periods).
2. If an employee separates from City employment and does not have sufficient compensation to repay the balance, the employee will repay any remaining unpaid balance within 60 days.