



## **COVID-19**

### **FREQUENTLY ASKED QUESTIONS**

#### ***Employee Leaves***

*Updated as of 8/4/2020 at 12:00 pm and may be amended.*

#### **Families First Coronavirus Response Act**

##### **1. What is the Families First Coronavirus Response Act (“FFCRA”) and when is it effective?**

FFCRA is a federal emergency law created in response to COVID-19. The law provides COVID-19 relief, including paid leave under the:

1. Emergency Paid Sick Leave Act (coded as “ESP” on City timesheets), and
2. Emergency Family and Medical Leave Expansion Act (coded as “ESF” on City timesheets)

The new law is effective from April 1, 2020, through December 31, 2020.

##### **2. Who is eligible for FFCRA paid leaves?**

ESP: All City employees, including part-time and As-Needed employees are eligible.

ESF: All City employees with 30 days of service, including part-time and As-Needed employees are eligible.

##### **3. Can employees use FFCRA paid leaves to supplement State Disability Insurance, Workers’ Compensation or other disability benefits?**

No, unless an employee is able to work part-time modified duty, but cannot work due to a qualifying reason in the FFCRA.

#### **Emergency Paid Sick Leave (ESP)**

##### **4. How much ESP are employees entitled to take?**

Full-time employees can take up to 80 hours of ESP for any one of the six qualifying reasons. See, Question # 5. Part-time employees will receive a prorated number of ESP hours that is based on the average number of hours they were scheduled to work each day over a six-month period. New hires, who work As-Needed, with less than six-months of service, will receive a prorated number of ESP hours based on the number of hours they are expected to work.

ESP must be taken continuously for two weeks, if taken for quarantine or isolation and the employee is unable to telecommute. Continuous leave is required in this case to prevent the spread of COVID-19.

ESP can be taken while working part-time or intermittently until the hours are exhausted, if employees are telecommuting, or taking leave to care for a child due to a school or childcare closure or unavailability.

## 5. What are the qualifying reasons for taking ESP?

Employees can take ESP for six qualifying reasons:

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19, that prohibits the employee's going to work.
  - Quarantine or isolation order includes shelter-in-place, or stay-at-home orders issued by a federal, state or local government authority, such as U.S. Customs and Border Protection, state and local public health departments, and other government entities.
  - **Neither the San Francisco nor the state shelter-in-place orders prohibit government employees going to work. Employees are not eligible for ESP based on these shelter-in-place orders.**
2. The employee is advised by their health care provider to self-quarantine due to concerns related to COVID-19.
  - Employees advised by their health care provider to isolate or quarantine because of a higher risk of serious illness from contracting COVID-19 – “vulnerable persons” and the advice prevents the employee from being able to work or telework.
3. The employee is experiencing symptoms of COVID-19, **and** seeking a medical diagnosis.
  - COVID-19 symptoms include mild to severe:
    - Fever
    - Cough
    - Shortness of breath or difficulty breathing
    - Sore throat
    - Loss of taste or smell
    - Other symptoms identified by the CDC
  - Seeking a medical diagnosis means:

- The employee has contacted a health care provider, clinic, or other health service to get diagnostic services, such as a swab test, blood test, examination, or other tests.
  - Employees may take leave while waiting for diagnostic services and results.
4. The employee is caring for an individual who is subject to a quarantine or isolation order by one of the entities in #1 or #2, above.
- An “individual” means an employee’s immediate family member, a person who regularly resides with the employee, or a similar person with who the employee has a relationship that creates an expectation that the employee would care for the person if that person were isolated or quarantined.
  - An individual does not include persons with whom the employee does not have a personal relationship
5. Caring for the employee’s child, if the child’s school or childcare provider has been closed, or is unavailable, due to COVID-19, and there is no other suitable person who will be caring for the child during the hours that the employee requests leave.
- “Child” means a biological, adopted or foster child, a stepchild, a legal ward, or a child for whom the employee is standing *in loco parentis* (meaning the employee has day-to-day responsibility to care for or financially support the child).
  - The child must be under the age 18, or 18 years or older, and incapable of self-care because of a mental or physical disability.
6. Other reasons that the federal government may include later.

#### **6. How much pay will employees receive while taking ESP?**

Employees taking leave for reasons #1, #2 or #3, will receive their regular pay, up to a maximum of \$511 per day, and \$5,110 total pay.

Employees taking leave for reasons #4, #5, or #6, will receive 2/3 of their regular pay, up to a maximum of \$200 per day, and \$2,000 total pay.

Employees can supplement ESP with their accrued leave, including COV sick leave, to receive 100% of their pay during the leave.

#### **7. How do employees apply for ESP?**

Employees complete a Sick Leave, Emergency FMLA, or Vacation Request Form (COVID-19), and return the completed form to their supervisor, manager or department Human Resources official.

#### **8. What kinds of documents are required to support a request for ESP?**

Employees seeking leave for a quarantine or isolation order (their own or an individual's) must identify the government entity that issued the order. Employees seeking leave on the advice of a health care provider (their own or an individual's) must provide the health care provider's name and date of the advice/order. Employees do not need to submit any official papers or doctor's notes, except for the Request Form.

### **Emergency Family and Medical Leave (ESF)**

#### **9. How much ESF are employees entitled to use?**

Full-time employees can take up to 12 weeks (480 hours, prorated for part-time employees) of job protected leave. Ten weeks of this leave is paid.

ESF can be taken continuously for 12 weeks, or while working part-time, or intermittently until the hours are exhausted. Departments have discretion to deny requests for part-time and intermittent ESF, and may require employees to take the leave in two-week increments.

#### **10. Does ESF give employees an additional 12-weeks of FMLA protected leave?**

No. ESF is not an additional 12-weeks of FMLA leave; instead it adds a new reason for taking FMLA. Employees who have already used their full 12-weeks of FMLA leave within the prior 12 months are not eligible for ESF. Employees who have used part of their 12-weeks of FMLA leave can take the balance as ESF.

#### **11. What are the qualifying reasons for taking ESF?**

The only qualifying reason for ESF is to care for the employee's child, if the child's school or childcare provider has been closed, or is unavailable, due to COVID-19, and there is no other suitable person who will be caring for the child during the hours that the employee requests leave.

#### **12. How much pay will employees receive while taking ESF?**

The first two weeks of ESF are unpaid, but employees can use ESP and/or supplement with their accrued leave to receive pay during their first two weeks. After the first two weeks employees will receive 2/3 of their regular pay, up to a maximum of \$200 per day, and \$12,000 total pay for the full ten weeks.

#### **13. How do employees apply for ESF?**

Employees complete a Sick Leave, Emergency FMLA, or Vacation Request Form (COVID-19), and return the completed form to their supervisor, manager or department Human Resources official.

#### **14. What kinds of documents are required to support a request for ESP?**

Employees are required to identify the child(ren), the school or childcare provider, and provide a statement that no other suitable person is available to care for their child. Employees do not need to submit any documents, other than the Request Form.

If the child is age 15 or older, employees are further required to provide a statement that special circumstances require them to take leave to care for the child.

### **New City Allocation of Sick Leave (COV)**

#### **15. How much COV can employees use?**

All City employees with regular schedules received 80 hours of additional sick leave. This leave is identified as COV in employee leave accrual banks. The number of hours is prorated for part-time employees. Employees can use this new allocation of sick leave for the same reasons as regular sick leave and for childcare due to school closures. It is not just for COVID-19 related illness.

#### **16. Do employees have to repay COV by forgoing future leave accruals?**

No. City employees are not required to repay COV.

#### **17. Will COV automatically be used to repay any sick leave advancement received by an employee?**

No. Employees can elect to use COV to repay sick leave advances. If employees do not elect to use COV to repay a sick leave advance, then the City will automatically use the employee's future sick leave accruals to repay the advance.

### **Emergency Leaves For the 2020-2021 Academic Year**

#### **18. For many schools, the 2020-21 academic year starts next month. Some schools will continue remote learning for the first three weeks or longer, before returning to in-class instruction. Are employees eligible for COVID-19 leave and pay for the new academic year?**

Employees may use sick leave, including the prior allocation of COVID-19 sick leave (COV) to care for children who are unable to attend school due to COVID-19 closures. Sick leave is available even if children participate in a remote learning curriculum. Departments should verify school closures, because each school district can decide whether and when to reopen schools.

Employees may also be eligible for federal Emergency Paid Sick Leave (ESP) or Emergency Paid FMLA (EFMLA) if they are unable to work or telecommute while caring for children who cannot attend school due to COVID-19 closures. Only employees who have not already exhausted their federal paid leave entitlements are eligible for this benefit. This benefit is also currently set to expire on December 31, 2020.

#### **19. Schools will begin health screening for students when the new academic year starts. The screening protocol may require schools to send students home for COVID-19 symptoms or exposure. Are employees eligible for COVID-19 leave and pay if their children are sent home due to COVID-19 symptoms or exposure?**

Employees can use sick leave, including the prior allocation of COVID-19 sick leave (COV) to care for children recovering from COVID-19 symptoms or who are required to isolate due to potential exposure. Employees are also eligible for federal Emergency Paid Sick Leave (ESP) to care for children with COVID-19 symptoms, diagnosis, or exposure. However, employees are not eligible for federal Emergency Paid FMLA (EFMLA) for this purpose and while schools remain open.

**20. Although many schools will reopen for the new academic year, some parents will elect to keep their children home due to concerns about COVID-19 exposure. Are employees eligible for COVID-19 leave and pay if they elect to keep their children home rather than allow them to attend in-class instruction? What if the child has an underlying health condition that makes them vulnerable to serious illness if they contract COVID-19?**

Employees are not eligible for sick leave to care for children who are able to attend schools for in-class instruction. These employees may request vacation, which may be approved at the department's discretion. Employees are not eligible for federal paid leaves (ESP or EFMLA) to care for children who are able to attend school for in-class instruction.

However, employees with a child who is vulnerable to COVID-19 may be eligible to use sick leave if a health care provider orders or advises the child to isolate or quarantine because of their health condition. These employees may also be eligible for federal Emergency Paid Sick Leave.

**21. How much leave should departments approve for ongoing school and childcare closures caused by COVID-19?**

Departments must approve childcare leave for employees eligible for federal Emergency Paid FMLA (EFMLA) under the FFCRA. This law provides up to 12 weeks of job-protected leave. For employee unable to telecommute, departments should consider approving a reasonable period of additional discretionary paid or unpaid leave for childcare, if feasible. Operational needs should determine how much leave employees may take to care for children unable to attend schools or childcare facilities.