

City of Commerce, California
Human Resources Policy and Procedure Manual

SUBJECT: PAID SICK LEAVE RELATED TO COVID-19 AND TEMPORARILY EXPANDED FMLA LEAVE FOR CHILDCARE DUE TO COVID-19 RELATED SCHOOL CLOSURE, AVAILABLE UNDER FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA, HR 6201) AND CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT (CARES ACT, HR 748)

PURPOSE:

To define the City of Commerce's temporary and emergency policy and procedure regarding the Families First Coronavirus Response Act (FFCRA) enacted March 18, 2020, in accordance with State and Federal law and already-existing City policy. FFCRA has expired on December 31, 2020, but, as authorized by Congress in its most recent COVID-19 Relief Package, the City has opted to voluntarily extend FFCRA leave benefits through **March 31, 2021**. The FFCRA's paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020 and March 31, 2021. The FFCRA establishes the following:

- Emergency Federal Paid Sick Leave
- Expanded coverage of FMLA for childcare based on a COVID-19 related school closure.

DEFINITIONS:

“Paid sick leave” – Paid Sick Leave available under the Emergency Federal Paid Sick Leave provision of the FFCRA.

“Expanded family and medical leave” – Paid leave available for childcare based on a COVID-19 related school closure under the expanded Family and Medical Leave provision of the FFCRA.

POLICY:

The City of Commerce supports efforts to ensure a healthy and safe workplace for all employees. An employee diagnosed with COVID-19, who is the primary caregiver for an eligible family member diagnosed with COVID-19, will qualify for 12-weeks of job protected leave under existing FMLA laws.

This policy is established to ensure that employees not diagnosed with COVID-19 and not serving as the primary caregiver for an eligible family member diagnosed with COVID-19, but who have been impacted by COVID-19 quarantine, isolation order, or school closure, are able to address healthcare and childcare concerns related to COVID-19 in compliance with federal legislation.

Emergency federal paid sick leave for COVID-19 related reasons is available to employees without current sick leave balances. Employees are not required to use his/her current sick leave balances and employers are prohibited from retaliating against any employee who takes leave in accordance with the Act. Employees are entitled to take sick leave under the Act beginning April 1, 2020 through March 31, 2021, and any unused leave does not carry over.

All pay related aspects of this policy will be in accordance with the U.S. Department of Labor (DOL). **Families First Coronavirus Response Act (FFCRA) Leave Request Forms** for leaves available under this policy can be submitted to Human Resources via email to HR-Staff@ci.commerce.ca.us or by fax to (323) 887-4412.

Emergency Federal Paid Sick Leave for COVID-19 Related Personal Health Condition

Under the Emergency Federal Paid Sick Leave provision, all City of Commerce employees meeting the following criteria are eligible for two weeks of paid sick leave at the employee's regular rate of pay if the employee is unable to work or telework due to one of the following reasons:

1. **Employee Subject to Federal, State, or local quarantine or isolation order related to COVID-19.**
2. **Quarantine Imposed by Health Care Provider, Employer or Government Official.**
3. **Employee is Experiencing COVID-19 Symptoms, and is Seeking a Medical Diagnosis.**

The maximum value for leave under #1, #2, or #3 above is established at \$511 per day (\$5,110 in total for each employee over a two week period) where leave is taken for reasons 1, 2, or 3 for the employee's own illness or quarantine.

Full-time employees qualifying for reasons 1, 2, or 3 above are entitled to two weeks (80 hours) of paid leave at the employee's regular rate of pay.

Part-time employees are eligible for paid leave at the regular rate of pay to cover the typical number of hours that they work in a two-week period.

If the normal hours scheduled for a part time employee are unknown, or if the part-time employee's schedule varies, the employee's average daily hours will be calculated based on the prior six-month period of time. In this situation, the employee may take paid sick leave for this average daily number of hours per day for up to a two-week period, and may take expanded family and medical leave (as described below) for the same number of hours per day up to ten weeks after that. If this calculation cannot be made because an employee has not been employed for at least six months, the City will use the number of scheduled hours based on a written agreement, and if there is no written agreement, the City will use the average hours that the employee has been scheduled to work over the term of his or her employment.

The Emergency Federal Paid Sick Leave provision requires that paid sick leave be paid only up to 80 hours over a two-week period. For example, an employee who is typically scheduled to work 50 hours in a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week. In any event, the total number of hours paid under the Emergency Paid Sick Leave Act is capped at 80.

Emergency Federal Paid Sick Leave for Caregivers for COVID 19-Related Reason or for Childcare due to COVID-19 Related School Closure.

Under the Emergency Federal Paid Sick Leave Provision, all City of Commerce employees meeting the following criteria related to care of a person who has COVID-19, or care for a child or other individual who is unable to care for themselves due to the COVID-19 related closing of their school, child care facility, or other care, or that qualify under criteria #6 below, are eligible for two weeks of partially paid sick leave under the emergency federal paid sick leave provision.

4. **Employee Providing Care for Person Subject to a Federal, State or local quarantine or isolation order related to COVID-19.**
5. **Caring for his or Her Child Whose School or Place of Care is Closed (or Child Care Provider is Unavailable) Due to COVID-19 Related Reasons.**
6. **Employee Experiencing Substantially Similar Conditions Specified by the Secretary of Health and Human Services.**

Full-time employees are entitled to 80 hours of partially paid leave at 2/3 of employee's regular rate of pay, up to \$200 daily and \$2,000 total if they qualify for:

- a) #4 above relating to caregiving for an individual subject to an order as described above in # 1 or #2, or
- b) #5 above related to childcare due to a COVID-19 related school closure

Part-time employees qualifying for reason #4 above relating to caregiving for an individual subject to an order or for #5 above related to childcare due to a COVID-19 related school closure are entitled to partially paid leave to cover the typical number of hours that they work in a two week period, up to \$200 daily and \$2,000 total.

Employees receiving partially paid leave at 2/3 of employee's regular rate of pay are not authorized to supplement the partially paid leave with leave balances.

Employees are not authorized to use Families First Coronavirus Response Act leave on an intermittent basis.

Emergency FMLA Leave – Childcare Based on COVID-19 Related School Closure

Eligibility for Family and Medical Leave (FMLA) is expanded to include the following qualifying event:

Where a City of Commerce employee is unable to work (or telework) due to a need to care for a minor child if the child's school or place of child care has been closed or is unavailable due to a public health emergency. Employees are eligible for Emergency FMLA Leave if employed for at least 30 calendar days, and would need to have been an employee of the City as of March 2, 2020 to be eligible for this leave. An employee hired after March 2, 2020 would need to be employed for 30 calendar days before qualifying for this leave. This provision allows employees not previously eligible for FMLA leave to use up to 12 weeks of job-protected leave to address childcare needs resulting from COVID-19 closures of schools and other childcare places.

In the event an employee is the spouse of another employee, both employees are not eligible to simultaneously use FMLA leave for the purpose of childcare related to a COVID-19 related closure.

The Emergency FMLA Leave Provision for Childcare does not add to the annual 12-week FMLA allotment available to eligible employees. If FMLA was previously taken for other reasons, the hours remaining from the previous FMLA allotments may be used for this leave.

Emergency FMLA Leave for Childcare provides a partially paid form of leave for childcare needs resulting from COVID-19, including needs based on a closure of a school or other childcare place.

Once an employee has exhausted two weeks of fully or partially paid sick leave for COVID-19 Childcare related reasons and who have been employed for up to 30 days prior to their leave request, may be eligible for Emergency Family Medical Leave. This Emergency Family Medical Leave provides partial pay of 2/3 of the employee's regular rate of pay for the number of hours the employee would otherwise be normally scheduled, up to a maximum of \$200 per day and \$10,000 in total. Employees who work a part-time or irregular schedule would be entitled to be paid based on the average number of hours the employee worked for the six months prior to the taking paid sick leave. Employees who have worked for less than six months prior to taking this leave would be entitled to the average number of hours the employee would normally be scheduled to work.

After using Emergency Paid Sick Leave, an employee who continues leave under the Emergency FMLA Leave due to COVID-19 related reasons, will remain eligible for 10 weeks of the 12-week FMLA allotment.

Employees receiving partially paid leave at 2/3 of employee's regular rate of pay are not authorized to supplement the partially paid leave with leave balances.

Employees are not authorized to use Families First Coronavirus Response Act leave on an intermittent basis.

Return From Leave

Employees on an FFCRA leave are prohibited from entering a City facility during the time period of the leave, until the employee is cleared to return by Human Resources. Employees on a FFCRA leave of absence are required to maintain ongoing communication with Human Resources and his/her supervisor regarding updates to his/her leave status, during the time period of his/her leave.

In order to extend a leave for reasons #1, #2, or #3 under this Temporary Policy, an employee must request additional leave under the City's Family, Medical, and/or Pregnancy Disability Leave Policy.

Failure to Return From Leave

The failure of an employee to return to work upon the expiration of an authorized leave of absence will subject the employee to disciplinary action in accordance with the City of Commerce Discipline Policy.

PROCEDURES

<u>Responsibility</u>	<u>Action</u>
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REQUESTING/GRANTING LEAVE

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| Employee | <ol style="list-style-type: none">1. Employees requesting leave under this policy are required to contact Human Resources prior to the start of the leave, or as soon as reasonably practicable. Employees requesting to use Emergency Federal Paid Sick Leave or Emergency FMLA Care – Childcare, <u>or both</u>, can access the forms online at: https://www.ci.commerce.ca.us/home/showpublisheddocument?id=1142 Forms are attached to the policy as an addendum, on the Human Resources Web Site Policy and Procedures section.2. Submits completed Families First Coronavirus Response Act (FFCRA) Leave Request Form via email to HR-Staff@ci.commerce.ca.us , or by fax to (323) 887-4412. The FFCRA leave Request Form should indicate whether the request is for Emergency Federal Paid Sick Leave or for Emergency FMLA Care – Childcare, <u>or both</u>.3. Required documentation is dependent on |
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the type of leave being requested. For medical COVID-19 related reasons for sick leave, documentation may include a copy of the Federal, State or local quarantine or isolation order related to COVID-19 or written documentation from a health care provider advising you to self-quarantine due to concerns related to COVID-19. For Childcare related reasons, documentation could include a notice that has been posted on a government, school, or day care website, or published in a newspaper, or an email from an employee or official of the school, place of care, or child care provider. The request should also include the name and ages of the children, their relationship to the child, the name of the school or child care provider that has closed or become unavailable, and a personal statement regarding the childcare situation and if any person is available to care for the children.

Human Resources

4. Upon receipt of the FFCRA Leave Request, notifies Department Head or designee that a request for leave for certain dates has been submitted.
5. Determine if the request for leave meets the entitlement criteria under this policy and law.
6. Consults with Department Head or designee about scheduling or other issues related to the leave request.
7. Approves and designates the leave if the request complies with this policy and law.
8. If necessary, makes a preliminary approval and designation if any requested medical certification has not been received.
9. Notifies employee of the approval, preliminary approval, or non-approval of the request for leave and reasons.
10. Notifies the supervisor and Department Head of the approval, preliminary approval, or lack of approval of the request for leave.
11. Prepare a Personnel Action Form indicating effective date of approved leave.

Finance

12. Ensures that employees using leave available under this policy are

compensated in accordance with State and Federal law and City policy. This includes calculating employee rate of pay for employees qualifying for partially paid leave, as applicable, under partially paid Emergency Federal Paid Sick Leave or partially paid Emergency FML – Childcare.

Employee

13. Maintains employee's share of health premiums under the same conditions that applied before the leave commenced.
14. Maintains union dues, if applicable.
15. Remits any appropriate payments in response to billing advice from the City of Commerce.

RETURNING FROM LEAVE

Employee

16. Employee contacts Human Resources to obtain a clearance to return to work.
17. Employee notifies Department Head or supervisor of employee's scheduled return pending Human Resources' approval.

Human Resources

18. Notifies the Department Head or designee of the date the employee is scheduled to return from leave.
19. Prepares a Personnel Action Form (PAF) returning the employee to regular Status.
20. If employee does not return upon expiration of authorized leave, review disciplinary action pursuant to Discipline Policy.