



## City of Little Rock

### FAMILIES FIRST CORONAVIRUS RESPONSE ACT EMERGENCY FAMILY MEDICAL LEAVE ACT AND EMERGENCY PAID SICK LEAVE AC

EFFECTIVE: APRIL 1, 2020

On March 18, 2020, the U.S. House of Representatives passed legislation to address the spread of COVID-19 in the United States. The Families First Coronavirus Response Act (FFCRA or H.R. 6201) includes specific provisions impacting employers, such as the new Emergency Family Medical Leave Act (Emergency FMLA) and Emergency Paid Sick Leave Act (EPSLA), and provisions for all group health plans to provide coverage for COVID-19 testing (and provider visits associated with the testing) with no cost sharing and no prior authorization or other medical management requirements.

#### 1. **General Statement**

To comply with the new federal laws, the City of Little Rock (the City) will implement this policy to comply with the Emergency FMLA and Emergency Paid Sick Leave that will go into effect on April 1, 2020 and expire on December 31, 2020.

#### 2. **Emergency Family and Medical Leave**

The function of this policy is to provide employees with a general description of their rights under the Emergency Family and Medical Leave Expansion Act (Emergency FMLA). In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

##### Eligibility Requirements

The City will provide up to twelve (12) weeks of Emergency FMLA leave for employees who meet the following criteria:

- a. Eligibility is limited to non-Emergency Responders. Emergency Responders are excluded from Emergency FMLA Leave. An emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. In addition, personnel who have specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals whose work is necessary to maintain the operation of the facility. This includes, but is not limited to, all personnel from the following Departments/Divisions: Police, Fire, Fleet Services, Public Works, Information Technology, 311 Service Center, Emergency Management, Payroll, Risk Management. Environmental Services/custodians and the position of City Attorney and Chief Deputy Attorney.
- b. May take a total of twelve (12) workweeks of leave during a twelve (12) month period under the FMLA, including the Emergency FMLA. The twelve (12) week limit is for all FMLA leave—employees do not get 12 weeks of each type.
- c. Must have been on the job for at least thirty (30) days; and
- d. Must be unable to work (or telework) for the following reasons:



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- i. The employee needs to care for a child (under 18 years of age), son or daughter because the son's or daughter's school or place of care has been closed due to COVID-19, including
- ii. If the child care provider of that son or daughter is unavailable due to a COVID-19 related public health emergency.
- e. The rate of pay for this Emergency FMLA shall not be less than two-thirds of the employee's regular rate of pay. The paid leave is capped at \$200 per day and \$10,000 total.
- f. For the first ten (10) days of time taken, the City is not required to pay Emergency FMLA; however, *see the City's Emergency Paid Sick Leave requirements*.
- g. An employee can opt to use accrued paid leave, instead of Emergency FMLA.
- h. Duration of Leave

An eligible full-time employee is eligible for up to twelve (12) weeks of leave (two weeks of paid sick leave followed by up to ten (10) weeks of paid expanded family & medical leave) at forty (40) hours a week.

An eligible part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period. If this cannot be determined the Department will average the number of hours worked over the last six (6) months or use the number of hours the employee was hired to work.

- i. Employees will be restored to his or her same or to an equivalent position upon return to work at the end of the leave.

### **3. Emergency Paid Sick Leave**

The function of this policy is to provide employees with a general description of their rights under the Emergency Paid Sick Leave Act. In the event of any conflict between this policy and the applicable law, employees will be afforded all rights required by law.

- a. The City will provide Emergency Paid Sick Leave to all employees who are not able to work according to the reasons i, ii, iii, below. In order to receive paid sick leave under the Emergency Paid Sick Leave Act, employees must meet one of the following qualifying reasons:



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- i. The employee is subject to a Federal, State, or local government COVID-19 quarantine or isolation order;
- ii. The employee has been advised by a health care provider to self-quarantine due to COVID-19 concerns;
- iii. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;

For iv. and v. below, eligibility is limited to employees who are non-Emergency Responders and are not able to work for the reasons below. Emergency Responders are excluded from Emergency FMLA Leave. An emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. In addition, personnel who have specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals whose work is necessary to maintain the operation of the facility. This includes, but is not limited to, all personnel from the following Departments/Divisions: Police, Fire, Fleet Services, Public Works, Information Technology, 311 Service Center, Emergency Management, Payroll, Risk Management. Environmental Services/custodians and the position of City Attorney and Chief Deputy Attorney.

- iv. The employee is unable to work because of a bona fide need to care for an individual subject to a Federal, State, or local government COVID-19 quarantine or isolation order;
- v. The employee is caring for a child (under 18 years of age) whose school or place of care is closed, or the child care provider of the child is unavailable, due to COVID-19 precautions. *The City will grant up to an additional 10 weeks of Expanded Family and Medical Leave at two-thirds of an employee's regular pay where an employee has been employed for at least thirty (30) days, and is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.*
- vi. The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Labor and Treasury; and,



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#### b. Duration of Leave

- i. Sick leave taken under the Emergency Paid Sick Leave Act is available for immediate use regardless of the employee's tenure at the City.
- ii. A full-time employee is eligible for up to eighty (80) hours of leave,
- iii. A part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period, or the average of hours worked over the last six (6) months, or the hours the employee was hired to work.
- iv. Paid sick time taken under the Emergency Paid Sick Leave policy will not carry over from year to year.

#### c. Calculation of Pay:

Eligible employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a two (2) week period) if the employee is unable to work (or unable to telework) due to a need for leave because the employee:

- i. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- ii. has been advised by a health care provider to self-quarantine related to COVID-19.
- iii. is experiencing COVID-19 symptoms and is seeking a medical diagnosis.

Eligible employees taking leave are entitled to pay at two-thirds their regular rate or two-thirds the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a two (2) week period) due to a need for leave because the employee:

- i. is caring for an individual subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- ii. is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.



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Employees taking leave are entitled to pay at two-thirds their regular rate or two-thirds the applicable minimum wage, whichever is higher, up to \$200 per day and \$10,000 in the aggregate (over a twelve (12) week period) due to a need for leave because the employee:

- i. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

#### 4. Procedures

##### a. Requesting Emergency FMLA Leave

- i. The employee must submit the designated Leave Request Form to their Department Director for approval.
- ii. The employee must also provide additional documentation in support of their Emergency FMLA request to care for his/her child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.
- iii. Acceptable documentation may include, but is not limited to a notice of closure or unavailability from his/her child's school, place of care, or child care 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.

##### b. Requesting Emergency Paid Sick Leave

- i. The employee must submit the designated Leave Request Form to their Department Director for approval.
- ii. The employee must also provide a statement from their/the patient's Health Care Provider in support of their Emergency Paid Sick Leave request due to COVID-19 related reasons.

#### 5. Social Security Taxes

Pursuant to the FFCRA, Emergency Sick Leave and Emergency FMLA are not considered wages for the purpose of social security tax (OASDI) portion of the FICA Tax.