



CITY OF BIRMINGHAM, AL
HUMAN RESOURCES POLICY

Effective: April 1, 2020 - December 31, 2020

| SECTION | SUBJECT |
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| | EMERGENCY PAID SICK LEAVE AND EXPANDED FMLA LEAVE |

PURPOSE

To comply with the Families First Coronavirus Response Act (FFCRA) and to assist eligible employees affected by the COVID-19 outbreak with emergency paid sick leave and job-protected leave. This policy will be in effect on April 1, 2020, until December 31, 2020. Our existing FMLA leave policy still applies to all other reasons for leave outside of this policy. No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave.

ELIGIBILITY

In accordance with the provisions of the FFCRA, the Emergency Paid Sick Leave and Expanded Family and Medical Leave Act benefits are only available to City of Birmingham employees who have not been deemed Emergency Responders as defined herein. All Emergency Responders should refer to the terms of Mayor's Executive Order 87-20 for guidance on COVID-19 related leave benefits.

DEFINITIONS

1. **CHILD** - A biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing *in loco parentis*, who is-
 - a. under 18 years of age; or
 - b. 18 years of age or older and incapable of self-care because of a mental or physical disability.

2. **CHILDCARE PROVIDER** - A "child care provider" is a provider who receives compensation for providing childcare services on a regular basis, including:
 - a. a center-based childcare provider
 - b. a group home childcare provider
 - c. a family childcare provider one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence (i.e. nanny)
 - d. other licensed provider of childcare services for compensation
 - e. a childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent

3. **EMERGENCY RESPONDER** - an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, firefighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.

4. **INDIVIDUAL** - an immediate family member or someone who regularly resides in your home.

EMERGENCY PAID SICK LEAVE (EPSL)

I. EMPLOYEE ELIGIBILITY

All full-time and part-time employees, who are unable to work (or telework) due to one of the following reasons for leave. All City employees that fall in the category of emergency responders, as defined herein, are excluded from eligibility for emergency paid sick leave.

A. QUALIFYING REASONS FOR LEAVE

An eligible employee qualifies for paid sick time if the employee is unable to work (or unable to telework) due to a need for leave 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 related to COVID-19.
- 3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- 4) The employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2).
- 5) The employee is caring for his or her child whose school or child care provider of such child is closed or unavailable for reasons related to COVID-19.
- 6) The employee is experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

II. PAID SICK LEAVE

A. Amount of Paid Sick Leave

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. All eligible part-time employees are entitled to the number of hours worked, on average, over a two-week period. For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

B. RATE OF PAY

- For leave taken for reasons #1-3 above, two weeks (up to 80 hours) of emergency paid sick leave at the employee's regular rate of pay, or minimum wage, whichever is greater, up to \$511 per day and \$5,110 in total
- For leave taken for reasons #4-6 above, two weeks (up to 80 hours) of emergency paid sick leave at two-thirds the employee's regular rate of pay, or minimum wage, whichever is greater, up to \$200 per day and \$2,000 in total.

C. INTERACTION WITH OTHER PAID LEAVE

The employee may use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above. Employees may elect to substitute any accrued vacation, sick or other paid leave for the first two weeks of partial paid leave under this section.

Employees who are deemed ineligible for emergency paid sick leave under this policy (i.e. emergency responders), may be eligible to receive paid leave benefits provided by the City of Birmingham, subject to sufficient medical documentation of a COVID-19 medical diagnosis for the employee.

D. CARRYOVER

Emergency paid sick leave under this policy will not be provided beyond December 31, 2020. Emergency paid sick time provided under this Policy does not carryover from one year to the next. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

III. PROCEDURE FOR REQUESTING EMERGENCY PAID SICK LEAVE

The employee must submit a written request for leave that includes:

- The employee's name,
- The date or dates for which leave is requested, and
- A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and,
- A statement that the employee is unable to work, including by means of telework, for such reason.

A leave request form will be provided to all employees on the City of Birmingham's intranet and/or in a manner accessible to all. The employee must submit a leave request form and written support for such reason to Human Resources. Appropriate documentation will be required by Human Resources.

A. In the case of a leave request based on a quarantine order or self-quarantine advice, the statement from the employee should include:

- The name of the governmental entity ordering quarantine or medical documentation from the health care professional advising self-quarantine, and
- If the person subject to quarantine or advised to self-quarantine is not the employee, that person's name and relation to the employee.

B. In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include:

- The name and age of the child (or children) to be cared for,
- The name of the school that has closed or place of care that is unavailable, and
- A representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and,
- With respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

Once emergency paid sick leave has begun, the employee and his or her manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

EXPANDED FMLA LEAVE

I. EMPLOYEE ELIGIBILITY

All eligible employees who have been employed with the City of Birmingham for at least 30 days. All City employees that fall in the category of emergency responders, as defined herein, are excluded from eligibility for expanded FMLA leave.

A. QUALIFYING REASON FOR LEAVE

An eligible employee qualifies for Expanded FMLA Leave if the employee is unable to work (or unable to telework) because the employee is caring for a child whose school or child care provider of such child is closed or unavailable for reasons related to COVID-19.

II. DURATION OF LEAVE

Employees will have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy.

III. PAY DURING LEAVE

Leave will be unpaid for the first 10 days of leave; however, employees may use any accrued vacation, sick or other paid leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as explained above. After the first 10 days, leave will be paid at two-thirds of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Employees must substitute any accrued leave to make up the difference. Once the accrued leave is exhausted, employees will only receive 2/3 of his or her regular rate of pay. Pay will not exceed \$200 per day, and \$10,000 in total. Any unused portion of this pay will not carryover to the next year.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

IV. EMPLOYEE STATUS AND BENEFITS DURING LEAVE

While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the health, dental and/or vision premium. During any unpaid portions of leave, the employee must continue to make his or her payment per instructions from the Human Resources department.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

V. EMPLOYEE STATUS AFTER LEAVE

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The company may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

VI. PROCEDURES FOR REQUESTING LEAVE

All employees requesting FMLA leave must provide written notice, where possible, of the need for leave to Human Resources as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided. A request form will be provided to all employees on the City of Birmingham's intranet and/or in a manner accessible to all.

A. In the case of a leave request based on a school closing or child care provider unavailability, the statement from the employee should include:

- The name and age of the child (or children) to be cared for,
- The name of the school that has closed or place of care that is unavailable, and
- A representation that no other person will be providing care for the child during the period for which the employee is receiving family medical leave and,
- With respect to the employee's inability to work or telework because of a need to provide care for a child older than fourteen during daylight hours, a statement that special circumstances exist requiring the employee to provide care.

Within five business days after the employee has provided this notice, Human Resources will complete and provide the employee with any required notices. An employee who provides false documentation or misrepresentations of facts in order to receive these benefits may be subject to disciplinary action.

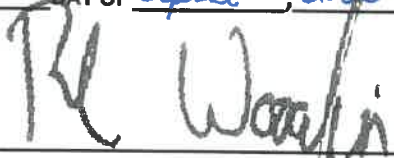
While on leave the employee will be required to furnish his or her manager with periodic reports of his or her status and intent to return to work, at a minimum of every 30 days.

VII. MAYOR'S EXECUTIVE ORDER 87-20

In light of the adoption of this policy, employees that are deemed eligible for emergency paid sick leave or expanded FMLA leave, are not eligible for the advance leave benefit provided under the Executive Order.

The terms and conditions of this policy may be revised at any time subject to any updates or revisions released by Congress.

APPROVED ON THIS THE 14th DAY OF April, 2020.



RANDALL L. WOODFIN, MAYOR