

CITY OF MARSHALL

TEMPORARY COVID-19 EMPLOYEE LEAVE POLICIES

Adopted by the City Council on [enter date].

Introduction and Purpose

In response to the COVID-19 outbreak, the federal government passed the Families First Coronavirus Response Act (FFCRA), which includes two types of paid emergency leave:

- Emergency Paid Sick Leave; and
- Public Health Emergency Leave (an expansion of the federal Family and Medical Leave Act (FMLA)).

In response to these changes in federal law, the City of Marshall (the “City”), adopts the two temporary policies described below, retroactive to April 1, 2020, and to expire on December 31, 2020.

These policies are in addition to the City’s existing leave policies. The purpose of these policies is to allow employees to care for their own health needs and/or those of their family members.

Emergency Paid Sick Leave Policy

This Emergency Paid Sick Leave Policy provides paid protection to employees who are unable to work due to complications related to COVID-19. This policy is effective April 1, 2020 through December 31, 2020.

Eligibility

All current employees of the City who have been employed for a least one calendar day as of April 1, 2020 are eligible for leave under this policy. The eligibility of emergency responders will be determined on a case-by-case basis by the City Administrator. The City reserves the right to approve, deny, and/or rescind leaves requested by emergency responders.

Qualifying Reasons

Eligible employees may use this leave if they are unable to work (on-site) or telework because they are:

1. Subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. Advised by a health care provider to self-quarantine 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 quarantine or isolation order (by federal, state, or local order), or as advised by a health care provider.
5. Caring for your son or daughter, whose school or place of care has been closed, or the child care provider is unavailable, 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.

Length of Leave

Full-time regular employees are entitled to a maximum of 80 hours of Emergency Paid Sick Leave.

Part-time employees, including variable hour, paid-on-call, temporary, seasonal, and interns are entitled to leave for his/her average number of hours worked during a typical two-week period. The two-week period shall be determined by the City.

Employees using Emergency Paid Sick Leave for qualifying reasons (1)-(4), and (6) must take paid sick leave in full-day increments until either: 1) the full amount of leave is exhausted; or 2) there is no longer a qualifying reason for taking paid sick leave. Employees who are able to telework may use Emergency Paid Sick Leave for qualifying reasons (1)-(4), and (6) in partial-day increments upon approval of the Division Director and the City Administrator. Additionally, under these conditions an employee may also qualify for FMLA, which shall run concurrently with Emergency Paid Sick Leave, and all other regular FMLA policies and procedures shall apply.

Employees using Emergency Paid Sick Leave for qualifying reason (5), to care for a child(ren) whose school or place of care is closed or unavailable due to COVID-19 precautions, may use the Emergency Paid Sick Leave intermittently or on a reduced schedule with the approval of the employee's Division Director and the City Administrator. Additionally, under this qualifying reason, the employee may also be entitled to leave under the Public Health Emergency Leave Policy, described below.

An employee may qualify for leave under two or more qualifying reasons, but each employee is only eligible for a maximum of 10 workdays (80 hours for a full-time employee) of Emergency Paid Sick Leave.

Pay and Benefits

Under qualifying reasons (1), (2), and (3) an employee is paid 100% of their regular rate of pay up to \$511 per day (\$5,110 in the aggregate).

Under the qualifying reasons (4), (5), and (6) an employee is paid 2/3 of their regular rate of pay, up to \$200 per day (\$2,000 in the aggregate). Under the qualifying reasons (4), (5), and (6), an employee may elect to supplement the 2/3 of regular rate pay with accrued vacation, sick, comp time, personal time, or floating holiday, not to exceed 100% of their normal weekly earnings.

Employees who have elected group health coverage under the City's plans will continue receiving that coverage while on leave. Employees must continue to make their normal contributions to the cost of health coverage.

Regular Rate of Pay

The City shall calculate the employee's regular rate of pay in accordance with section 7(e) of the Fair Labor Standards Act of 1938.

Process

An employee who requests leave under this policy shall notify his/her direct supervisor as soon as practically possible and comply with normal call-in procedures. The employee should complete the Emergency Paid Sick Leave Request Form. Leave requests shall be submitted to the Human Resources Manager, who shall make all eligibility determinations.

The City may require supporting documentation, including a notice from a medical provider, or notice of closure or availability from the employee's child's school, place of care, or child care provider.

An employee who unilaterally decides to self-quarantine for an illness without medical advice, even if he/she has COVID-19 symptoms, is not eligible for Paid Sick Leave under this law.

An employee on leave must follow normal department call-in procedures to report absences, unless otherwise directed by a supervisor. An employee on leave must report their status and intent to return to work to their supervisor, as directed.

Public Health Emergency Leave Policy

This Public Health Emergency Leave policy is a temporary expansion of the federal Family and Medical Leave Act (FMLA) to provide pay and benefit protection to employees who are unable to work because they are caring for a son or daughter whose school or place of care has been closed, or the child care provider is unavailable, due to COVID-19 precautions. This policy is effective April 1, 2020 through December 31, 2020.

Eligibility

All current employees of the City who have been employed for at least 30 calendar days prior to their leave request are eligible for benefits under this policy. The eligibility of emergency responders will be determined on a case-by-case basis by the City Administrator. The City reserves the right to approve, deny, and/or rescind leaves requested by emergency responders.

Qualifying Reasons

Eligible employees qualify for this policy if they are unable to work (on-site), or telework, because they are caring for a son or daughter whose school or place of care has been closed, or the child care provider is unavailable, due to COVID-19 precautions.

Duration

Employees are eligible for up to 12 weeks of leave under this policy. However, eligibility depends on the employee's remaining FMLA leave balance. Employees may take a total of 12 work weeks for FMLA or Public Health Emergency Leave reasons during a 12-month period measured forward from the first date of FMLA or Public Health Emergency Leave usage.

Reduced Schedule

Leave under this policy may be used intermittently or on a reduced schedule with the approval of the employee's Division Director and City Administrator. Additionally, the employee may qualify for leave under the Emergency Paid Sick Leave Policy, described above.

Pay and Benefits

The first 10 workdays of Public Health Emergency Leave under the FFCRA are unpaid. However, during the first 10 workdays, an employee may elect to substitute Emergency Paid Sick Leave, if available, or their own leave accruals (e.g., vacation, sick, personal leave, comp time, or floating holiday), or a combination of both, not to exceed 100% of their normal weekly earnings.

After the first 10 workdays of leave, the employee is eligible for up to 10 weeks of Public Health Emergency Leave at 2/3 their regular rate of pay, up to \$200 per day (no more than \$10,000 total). The City will require employees to utilize their existing paid leave accruals to supplement the remaining 1/3 pay from their vacation, comp time, personal leave, or floating holiday accruals concurrent with the

leave time taken, the combination of both not to exceed 100% of their normal weekly earnings. An employee may elect, but is not required, to utilize accrued sick leave for Public Health Emergency Leave. All available leave accruals, except sick and funeral leave, must be utilized during the period of paid Public Health Emergency Leave. Where available leave accruals are exhausted, the employee will be paid at 2/3 of their regular rate of pay, up to \$200 per day (no more than \$10,000 total).

Employees who have elected group health coverage under the City's plans are entitled to continue that coverage while on leave. Employees must continue to make his/her normal contributions to the cost of group health coverage.

Regular Rate of Pay

The City shall calculate the employee's regular rate of pay in accordance with section 7(e) of the Fair Labor Standards Act of 1938.

Process

The employee should give the City as much notice as practically possible and comply with normal call-in procedures. The employee must complete the Public Health Emergency Leave Request Form. Leave requests shall be submitted to the Human Resources Manager, who shall make all eligibility determinations.

The City may require supporting documentation, for example, a notice of closure or availability from the 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 the City from an employee or official of the school, place of care, or child care provider.

All existing certification requirements under the non-emergency FMLA policy remain in effect if the employee is taking leave for one of the existing qualifying reasons under the non-emergency FMLA Policy (see Employee Personnel Policy Manual).

Definitions

The following definitions apply to both leave policies under the FFCRA.

Child care provider: A "child care provider" is someone who cares for your child. This includes individuals paid to provide child care, like nannies, au pairs, and babysitters. It also includes individuals who provide child care at no cost and without a license on a regular basis, for example, grandparents, aunts, uncles, or neighbors.

Health care provider: the term as used to determine individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave, means a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.

Caring for an individual subject to a quarantine or isolation order: an "individual" includes an immediate family member or someone who regularly resides in your home. You may also take paid sick leave to care for someone if your relationship creates an expectation that you would care for the person in a quarantine or self-quarantine situation, and that individual depends on you for care during the quarantine or self-quarantine.

Son or daughter: is your own child, which includes your biological, adopted, or foster child, your stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child. Under the FFCRA a “son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability.

Additional Information

The following additional conditions apply under these policies:

- Unused leave benefits available under these policies expire on December 31, 2020 and will not carry over to the following calendar year, nor shall they be paid out to an employee in any form of cash, or used in any manner other than what is stated in this policy.
- Once an employee exhausts the eligible leave benefits under these policies, the City’s existing leave policies will apply.
- Where there is a conflict between these policies and an existing City policy, these policies control.
- These policies are not retroactive.

For more information employees may contact the Human Resources Manager or visit the U.S. Department of Labor website at <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>.

These leave policies will be administered in accordance with the law.