

CITY OF HAMILTON, OHIO

EMERGENCY MEMORANDUM

Effective Dates: 04/01/2020-12/31/2020

Revised: 10/21/2020, 1/1/2021

Emergency Memorandum: FFCRA

Issued By Civil Service & Human Resources
Department

SUBJECT: Families First Coronavirus Response Act

REFERENCES: C.O. 181.01. Vacation Leave; C.O. 181.27. Holiday Leave, 29 cfr 825.100
FMLA AND C.O. 181.26 PTO

PURPOSE: To provide for the uniform application and guidance of the Families First Coronavirus Response Act effective 04-01-2020, outlining usage of the Emergency Family and Medical Leave Expansion Act (EFMLEA) and Emergency Paid Sick Leave Act (EPSLA) with special circumstances related to COVID-19.

1. Policy.

- a. Families First Coronavirus Response Act (FFCRA) will consist of three (3) components that impact employers as it relates to the public health emergency COVID-19
 - i. Emergency Family and Medical Leave Expansion Act- EFMLEA
 - ii. Emergency Paid Sick Leave Act- EPSLA
 - iii. Coverage of testing for COVID-19
- b. Effective Dates April 1, 2020-December 31, 2020, extended until March 31, 2021
- c. Definition of a public health emergency, an emergency with respect to COVID-19 declared by a Federal, State, or local authority.
- d. Definition of public health leave, any emergency leave deemed necessary as a result of the public health emergency COVID-19.

2. First and Emergency Responders-FMLA Exclusions

- a. Definition of emergency responders: According to the Homeland Security Act of 2002 (6 U.S.C. § 101), the term "emergency response providers" includes Federal, State, and local governmental and nongovernmental emergency public safety, fire, law enforcement, emergency response, emergency medical (including hospital emergency facilities), and related personnel, agencies, and authorities.
- b. Definition of first responders: The term first responder refers to those individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including emergency response providers as defined in section

2 of the Homeland Security Act of 2002 (6 U.S.C. § 101).

- c. The COH emergency and first responder classifications which are excluded from this provision are attached as a separate addendum to this memo.
 - d. This list (Appendix A) is not exclusive, COH administration reserves the right to determine exclusions based upon the necessity of departmental needs and operations.
3. Emergency Families and Medical Leave Expansion Act- EFMLEA.
- a. “Eligible Employee” for public health emergency leave according to EFMLEA is an active employee who has been employed by the COH for at least 30 calendar days before requesting “Public Health Emergency Leave”.
 - b. EFMLEA expands the reasons an employee may qualify for the Family Medical Leave Act (FMLA) to include separate reasons related to a “public health emergency”.
 - c. It does NOT provide an additional 12 weeks for the separate reasons related to a public health emergency
 - d. Expands FMLA qualifying need under EFMLEA, when an employee is unable to work or telework due to a need for leave to care for the son or daughter under 18 years of age if the child’s school/place of care has been closed or if the child care provider of the child(ren) is unavailable due to a public health emergency. An employee must NOT have the ability to telework.
 - e. Expanded FMLA qualifying need under EFMLEA for employee’s own or employee’s family’s “serious medical condition”
 - i. Adhere to a required or recommended quarantine due to exposure or symptoms of coronavirus or
 - ii. Care for an at-risk family member who is adhering to a required or recommendation to quarantine due to exposure to or symptoms of coronavirus (COVID-19)
 - f. First 10 days of employee leave may consist of unpaid leave, the employee may use their entitlement to Emergency Paid Sick Leave as referenced in Section 4, below, or the employee may utilize their leave bank or PTO per standard COH FMLA guidelines (AD 324, 5a). An employee may elect to substitute accrued paid leaves during this 10 days.
 - g. After the first 10 days, and for the remainder of the 12 weeks of leave, the employee will be paid the employee’s regular rate of pay, for the number of hours the employee would otherwise be normally scheduled.
 - h. Employees with irregular schedules: Payroll calculation will be based on the average number of hours the employee worked for the six months prior to taking the Emergency FMLA.
 - i. For employees who have worked less than six months, payroll will use the employee’s reasonable expectation at hiring of the average number of hours the employee would normally be scheduled to work.
 - j. Upon completion of leave employees will return to the same or equivalent position upon return to work (same as traditional FMLA).
 - k. The normal FMLA certification requirements still apply as outlined in AD 324.

4. Emergency Paid Sick Leave Act- EPSLA

- a. Effective April 1, 2020, eligible employees regardless of how long the employee has been employed by the COH is entitled to emergency paid sick leave. Employees can be granted up to eighty (80) hours of emergency paid sick leave in addition to any accrued sick leave or PTO that they may have, in order to qualify for leave employees must be unable to work or telecommute due to the circumstances listed below:
 - i. Subject to a Federal, state, or local quarantine/isolation order related to COVID-19
 - ii. Under the formal advice of health care provider/official to self-quarantine.
 - iii. Experiencing symptoms of COVID-19 and is seeking a medical diagnosis
 - iv. Primary caregiver for individual who is in self quarantine per advice of health care provider
 - v. Primary caregiver for child if school/child care is closed due to Covid-19 precautions
 - vi. Experiencing other substantially similar Covid-19 conditions specified by Secretary of Health and Human Services
- b. There is no carryover to year 2021.
- c. A department and/or division director, or appointing authority cannot require an employee to perform the following duties prior to approving emergency paid sick leave
 - i. Use other paid leaves provided by the employer before the employee uses emergency paid sick leave
 - ii. Require an employee to find a replacement employee while the employee is using leave under the Act
 - iii. Discharge or discipline employees taking leave in accordance with the Act

5. Leave Benefits for Excluded Employees

- a. Persons who are excluded from the FFCRA provisions based on the guidelines may be considered for up to eighty (80) hours of leave consistent with the EPSLA provisions above for covered reasons under 4 (a), (i), (ii) or (iii).

6. Coverage of Testing for Covid-19

- a. COH group health insurance per Covid -19 testing is of zero cost to our employees that have enrolled in the health insurance plan.
- b. If an employee is administratively required to be tested for Covid-19, that testing will be of zero cost.

Appendix A

Emergency and First Responders Exclusions

This listing is not intended to be all-inclusive. Additional positions or classifications may be considered emergency responders for purposes of this policy depending on operational needs. Additions will be considered on a case by case basis.

IBEW

Maintenance Worker - (Electric Distribution)
Lineman (Line Worker)
Electrician
Electric Distribution Troubleshooter

AFSCME 475

Auto Equipment Operator
Automotive Service Worker
Building Service Worker
Certified Automotive Technician
Certified Master Automotive Technician
Certified Master Emergency Vehicle Technician
Chief Automotive Mechanic
Custodial Maintenance Worker
Maintenance Crew Leader
Maintenance Worker

IUOE

Gas Leak Surveyor
Hydroelectric Operator
HydroPlant Maintenance Plant Supv
Maintenance Worker
Meldahl Plant Operator
Plant Utility Worker
Regulator Technician
Utilities Crew Leader
Utilities Meter Repairer
Utilities Troubleshooter
Utility Plant Relief Operator
Water Reclamation Plant Mechanic

IUOE (continued)

Water Reclamation Operators
Water Production Crew Leader
Maintenance Mechanic

Meldahl and Greenup Plant

All Meldahl and Greenup Positions and Operations are excluded

Police and Fire Department

All Sworn Personnel

Schedule A

Director of Public Works
ATC G &W Superintendent
ATC G & W Dist . Supv
Strt & Sewer Maint. Supervisor
ACT Water Reclamation Treatment Superintendent
Water Production Superintendent
Gas & Water Distribution Supervisor
Streets & Sewers Superintendent
Electric Distribution Superintendent

Information Technology

All Department Positions

Health Department

Health Director
Public Health Sanitarian
Public Health Nursing Administrator
Public Health Environmental Administrator
External Services Technician I