



City of Sunny Isles Beach Administrative Regulation

Regulation Name	Emergency Paid Sick Leave and FMLA Leave Expansion Policy
Regulation Number	2020-01
Effective Date	April 1, 2020
Revision Date(s)	
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Purpose

To comply with the Families First Coronavirus Response Act (FFCRA) and to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. This policy will be in effect from April 1, 2020, until December 31, 2020. The City's existing FMLA leave policy, (Personnel Policy 704:2), still applies to all other reasons for leave outside of this policy.

Emergency Paid Sick Leave (EPSL)

Eligibility

All full-time and part-time employees unable to work (or telework) due to one of the following reasons for leave (and not exempt from the Act's provisions, which as of April 1, 2020 includes emergency responders).

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 due to concerns 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 who is subject to either number 1 or 2 above.
5. The employee is caring for his or her child if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions.
6. The employee is 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.

“Child” means 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.

“Individual” means an employee’s immediate family member, a person who regularly resides in the employee’s home, or a similar person with whom the Employee has a relationship that creates an expectation that the Employee would care for the person if he or she were quarantined or self-quarantined. For this purpose, “individual” does not include persons with whom the Employee has no personal relationship.

For the purposes of employees who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, 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. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, 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

Amount of Paid Sick Leave

All eligible full-time employees will have up to two weeks (80 hours) of paid sick leave available to use for the qualifying reasons above. 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.

Rate of Pay

Paid emergency sick leave will be paid at the employee's regular rate of pay, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 will be compensated at two-thirds their regular rate of pay. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-3 above;
- \$200 per day and \$2,000 in total for leave taken for reasons 4-6 above.

Interaction with Other Paid Leave

The employee must use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above. Employees on Expanded FMLA leave (or EFMLA) under this policy will be required to use the paid sick leave during the first 10 days of EFMLA leave, unless they have already exhausted the paid sick leave, at which time they will be required to use their time accruals.

Procedure for Requesting Emergency Paid Sick Leave

Employees must notify their Department Head and Human Resources of the need and specific reason for leave under this policy. A form will be provided to all employees via Seamless Docs and/or will be available from the Human Resources Department. Verbal notification or an email will be accepted until practicable to provide written notice. Additional documentation may be requested by the City to support your leave request.

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

An employee's timesheet will be processed by the Human Resources department while out on leave.

Intermittent Leave

The City may allow employees to take Emergency Paid Sick Leave (EPSL) or EFMLA leave intermittently under the FFCRA while teleworking. If not teleworking, employees are required to take EPSL in full-day increments if the leave is for any qualifying reason other than needing to care for a child whose school/childcare has closed.

Unless you are teleworking, once you begin taking paid sick leave for one or more of the qualifying reasons, you must continue to take paid sick leave each day until you either (1) use the full amount of paid sick leave or (2) no longer have a qualifying reason for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

If you no longer have a qualifying reason for taking paid sick leave before you exhaust your paid sick leave, you may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

If you are not teleworking, and the need for EPSL leave or EFMLA leave is due to a child's school/childcare facility closing, then intermittent leave is only available if the City and employee agree. However, if the City and employee can agree to a change in the employee's schedule, leave is not available.

Carryover

Paid emergency sick leave under this policy will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

Job Protections

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.

Any employee providing false or fraudulent information in order to take any leave provided under the FFCRA regulation or this administrative regulation will be subject to discipline, up to and including termination.

Expanded FMLA Leave (EFMLA)

Employee Eligibility

All employees who have been employed with the City of Sunny Isles Beach for at least 30 days; (and not exempt from the Act's provisions, which as of April 1, 2020 includes emergency responders).

For the purposes of employees who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, 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. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, 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

Reason for Leave

Eligible employees who are unable to work (or telework) due to a need to care for their child when the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19. Generally, an employee does not need to take emergency leave if another suitable individual (i.e. two-parent household, co-parent, co-guardian or usual childcare provider) is available to provide necessary care. An employee's request for EPSL and/or EFMLA must include a statement representing that no other suitable person is available to care for the child during the period of the requested leave.

"Child" means 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.

"Childcare provider" means a provider who receives compensation for providing childcare services on a regular basis, including:

- a center-based childcare provider
- a group home childcare provider
- 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)
- other licensed provider of childcare services for compensation
- 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.

“School” means an elementary or secondary school.

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.

Pay During Leave

Leave will be paid for the first 10 days of leave using the paid leave provided under the Emergency Paid Sick Leave Act, unless it has already been exhausted, at which time employees will be required to use their time accruals. If the employee has exhausted the Emergency Paid Sick leave and has no time accruals, the leave will be unpaid.

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. Pay will not exceed \$200 per day, and \$10,000 in total. Any unused portion of this pay will not carry over to the next year. Employees with a leave time balance must utilize all available leave time to make up the difference in pay (or to make the employee’s pay whole) prior to the taking of un-paid leave or falling in to an un-paid status. Leave time includes: Sick, Vacation, Floating Holidays, Compensatory Time and Administrative Time.

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.

Employees taking leave under EFMLA will not be eligible to participate in the City’s Voluntary Donation Program (Personnel Policy 704:3).

An employee's timesheet will be processed by the Human Resources department while out on leave.

Employee Status and Benefits During EFMLA 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 premium. During any unpaid portions of leave, the employee must continue to make this payment per instructions from the HR Department.

If the employee contributes to any optional benefit plans, the City 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. If the employee does not continue these payments, the City may discontinue coverage during the leave.

Procedure for Requesting EFMLA Leave

All employees requesting EFMLA leave must provide written notice, where possible, of the need for leave to their Department Head as soon as practicable. A form will be provided to all employees via Seamless Docs and/or will be available from the Human Resources Department. Within five business days, after the employee has provided this notice, the HR Department will complete and provide the employee with any required notices.

The notice the employee provides should include a brief statement as to the reason for leave, name of child(ren), school name, address and telephone number, and if possible, the expected duration of the leave.

Employees taking Expanded Family and Medical Leave to care for their child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19, may be required to provide additional documentation in support of such leave, to the extent permitted under the certification rules for conventional FMLA leave requests. For example, this 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 childcare provider.

On a basis that does not discriminate against employees on FMLA leave; the City may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

Any employee providing false or fraudulent information in order to take any leave provided under the FFCRA regulation or this administrative regulation will be subject to discipline, up to and including termination.

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 City 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 City operations. Key employees will be given written notice at the time EFMLA leave is requested of his or her status as a key employee.