



Date: May 8, 2020
To: City Staff
From: Alan Shear, Assistant City Manager
Re: Update - Families First Coronavirus Recovery Act (FFCRA)

With May 18 marking the beginning of the efforts to reopen the City facilities to the public that shut down during the pandemic, we would like to take this opportunity to remind employees about the Families First Coronavirus Recovery Act (FFCRA). Below is a brief summary of that program that went into effect on April 1. For a full description of the FFCRA, please refer to the memo that was issued on April 2nd. If you need time off under the FFCRA, please work with your supervisor and Kim Imboden, HR Manager.

Families First Coronavirus Response Act

The FFCRA provides for Emergency Paid Sick Leave and Emergency Expanded FMLA Leave to help lessen the severity of the COVID-19 outbreak in certain critical areas relating to employment and health care.

The Emergency Paid Sick Leave Act (herein referred to as Sick Leave Act) and Emergency Family and Medical Leave Expansion Act (Emergency FMLA Leave)

Emergency Family and Medical Leave Expansion Act (Emergency FMLA Leave)

Under this leave, full and part-time employees who have been employed for at least 30 calendar days are eligible to take up to 12-weeks of job-protected leave. An employee may take Emergency FMLA Leave if the employee is unable to work, or “telework” due to

- a need to care for the employee’s son or daughter because the son or daughter’s elementary or secondary school or place of care has been closed due to a public health emergency;
- or the childcare provider of such son or daughter is unavailable, due to a public health emergency.

- the initial 10 days of leave may consist of unpaid leave. However, an employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave during the initial 10 days of leave. In addition, an employee may also elect to substitute the (up to) 80 hours of emergency paid sick leave provided under the Emergency Paid Sick Leave Act, as further explained above.

Who is Entitled to the Leave?

Employees of non-federal public agencies are generally entitled to Emergency Family Medical Leave. This includes employees of cities such as Benicia. However, Benicia is excluding Police and Fire employees designated as an Emergency Responder from being able to take Emergency Family Medical Leave as permitted under the law.

Intermittent Emergency FMLA Leave

With approval from their supervisor or department head, eligible employees may use intermittent Emergency FMLA leave. For example, an employee might work 5 hours per day and use 3 hours of FMLA leave per day.

Pay for time off under Emergency FMLA Leave

The amount of pay under the provisions of the Emergency FMLA Leave is $\frac{2}{3}$ the employee's regular rate of pay (as defined by the FLSA) and based on the number of hours the employee would otherwise be normally scheduled to work. However, compensation for the expanded FMLA paid leave is capped at \$200 per day or \$10,000 total. Employees who wish to receive full paycheck can substitute accrued leave to make up the difference between the $\frac{2}{3}$ pay and full pay.

Emergency Paid Sick Leave Act (Sick Leave Act)

Full and part time employees are eligible for emergency paid sick leave, regardless of how long the employee has been employed. All City of Benicia employees are eligible for paid sick time if unable to work or 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 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 a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

5. The employee is caring for the employee's son or daughter because that child's school or place of care has been closed or the child care provider 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. Note: criteria for this item has not yet been established.

Amount of Emergency Paid Sick Leave

Full-time employees may take up to 80 hours of emergency paid sick leave.

Part-time employees may take up to a number of hours equal to the number of hours that the employee works, on average, over a two-week period. The DOL has explained that if the normal hours scheduled for part-time employee are unknown, or if the part-time employee's schedule varies, you may use a six-month average to calculate the average daily hours.

Pay When Taking Emergency Paid Sick Leave

Employee will be paid their regular rate of pay, up to 80 hours of emergency sick leave.

May Timesheet

Please refer to the memo from the Finance Department about how to code your timesheet for May 1 through May 17; and beginning May 18, how to code your timesheet for qualifying time under the FFCRA.

Requesting Time off Under Emergency Sick Leave and/or Emergency FMLA Leave

If you need to request time off for either emergency sick leave or emergency FMLA leave, please notify your supervisor as soon as possible, but also contact Kim Imboden, Human Resources Manager for the necessary paperwork. Kim's email is kimboden@benicia.org.