



Public Health Emergency Leave  
Expansion of the Family & Medical Leave Act (FMLA)

April 2020

I. Policy

The Families First Coronavirus Act expands the current Family and Medical Leave Act (FMLA) with the right to take up to twelve (12) weeks of job-protected leave for a Public Health Emergency. This policy takes effect on April 1, 2020, and ends on December 31, 2020.

II. Definitions

- A. **Public Health Emergency** is defined to mean an emergency with respect to Coronavirus (COVID-19) declared by a Federal, State or local authority.
- B. A **child** is defined to mean a biological, adopted or foster child, a stepchild, a legal ward, or child in the custody of a person standing in the place of a parent. The child must be either under the age of 18.
- C. **Job Protected Leave** means the employee is guaranteed the right to return to his/her former position or an equivalent position following Public Health Emergency Leave (PHEL).
- D. **Parent** means the biological, adoptive, step or foster parent, or individual who stands in the place of a parent and is charged with the duties and responsibilities of a parent. In-law relationships are not included.
- E. **Emergency Paid Sick Leave** is leave provided to employees, who are unable to work or telework due to COVID-19. See Administrative Policy #40, *Emergency Paid Sick Leave*.

III. General Provisions

- A. **Eligibility Requirements** - Full-time and part-time employees who have worked for the City for at least thirty (30) days are eligible for up to twelve (12) weeks of job-protected leave if they meet the following qualifying conditions:
  - 1. The employee must be unable to work or telework due to a need to care for a child because the child's school or place of care has been closed due to COVID-19; or

2. The childcare provider of the child is unavailable due to a Public Health Emergency.

B. **Amount of Leave** – Eligible employees may take up to a total of twelve (12) workweeks or 480 hours of PHEL when leave is taken for a qualifying condition.

IV. **Compensation While on Public Health Emergency Leave (Expansion of FMLA)**

The first ten (10) days of leave may be in the form of Emergency Paid Sick Leave or an employee may choose to substitute accrued annual leave or regular sick leave, however, the City may not require an employee to do so.

An employee may also take unpaid leave for the first ten (10) days. After the first ten (10) days of leave, employees will continue with paid PHEL (expanded leave under the Family & Medical Leave Act) at a rate of pay of at least two-thirds of the employee's usual rate of pay to no more than \$200 per day and \$10,000 in total.

V. **Requests for Public Health Emergency Leave (Expansion of FMLA)**

Public Health Emergency Leave should be requested in accordance with applicable City policies and as soon as the employee knows the leave will be needed. Employees should complete the Public Health Emergency Leave – Expansion of FMLA Form and submit it to their department head. If sufficient information is not provided, the department head is responsible for inquiring further as to the reason for the leave. Public Health Emergency Leave that has been properly requested and covered cannot be denied to eligible employees.

VI. **Designation of Public Health Emergency Leave**

When it has been determined that leave is covered by Public Health Emergency Leave through the Expansion of FMLA, Human Resource Management will inform the department head. Departments are required to provide a "Designation Notice" to the employee within five (5) working days.

VII. **Documenting Leave**

Human Resource Management will enter the initial personnel action in MUNIS for Department Head approval. Departments are responsible for entering, designating, and monitoring PHEL time in MUNIS. Departments are also responsible for maintaining all leave records, including written requests, approvals, and disapprovals. Human Resource Management will maintain records of designation notices for PHEL.

VIII. **Secondary Employment Prohibited**

Employees are prohibited from working second jobs while out on PHEL and employees found in violation will be subject to disciplinary action.

IX. **Job Protection Rights and Continuation of Benefits**

Upon return from Public Health Emergency Leave through the Expansion of FMLA, an employee is entitled to return to his/her same or equivalent position.

While on Public Health Emergency Leave through the Expansion of FMLA, employees will remain eligible for any group insurance benefits under the same conditions as coverage would have been provided if the employee had been actively employed during the entire leave. While in a paid status, the City will continue deducting insurance premiums. If all paid accrued leave is exhausted and the employee remains on leave in an unpaid status, the employee is responsible for paying his/her portion of any insurance premiums. If any portion of an employee's leave will be unpaid, the employee must notify Human Resource Management at [PHEL@portsmouthva.gov](mailto:PHEL@portsmouthva.gov) to make arrangements to pay any premiums.

Public Health Emergency Leave's job protection rights do not entitle an employee to any right, benefit, or position of employment other than those to which the employee would have been entitled had the leave not been taken. If an employee voluntarily terminates his/her employment while taking leave covered by Public Health Emergency Leave through the Expansion of FMLA, the City's Public Health Emergency Leave obligations to the employee cease.

If you should have any questions regarding this policy, please contact Human Resource Management at (757) 393-8626.

Approved:



City Manager