

CITY OF ANAHEIM

TEMPORARY PAID LEAVE PROGRAM IN RESPONSE TO COVID-19

Revised April 1, 2020

1. The purpose of this policy is to implement and amend temporary programs addressing the impact to employees and operations arising from to the COVID-19 outbreak and to comply with applicable legal mandates.
2. The City supports efforts to ensure a healthy and safe workplace for all employees (full-time, part-time, and probationary employees). This policy is established to ensure that employees are able to address healthcare concerns related to the COVID-19 outbreak with limited or no loss of income, to implement the provisions of the recently enacted federal Families First Coronavirus Response Act, the Emergency Family and Medical Leave Expansion Act and the Emergency Paid Sick Leave Act, and to provide managers with appropriate options to address workforce needs during the applicable program term.
3. The provisions of this policy are effective April 1, 2020.
4. The programs and provisions established by this policy beyond those that are mandated by federal or state law (hereinafter, LOCAL PROGRAMS) are intended to be temporary. The terms for LOCAL PROGRAMS established by this policy are effective April 1, 2020 and will terminate upon written direction of the City Manager. Following termination by the City Manager, employees will no longer be eligible for paid leave under LOCAL PROGRAMS. The City Manager, in his sole discretion, has the authority to make necessary changes to the policy.
5. Effective April 1, 2020, the Special Paid Sick Leave (SPSL) implemented on March 17, 2020 is terminated. SPSL hours will no longer be available for employee use beginning April 1, 2020.
6. **EMERGENCY PAID SICK LEAVE:** Effective April 1, 2020, in compliance with the **Families First Coronavirus Response Act and the Emergency Paid Sick Leave Act**, the City will implement the **Emergency Paid Sick Leave (EPSL)** program.
 - 6.1. The Finance Department/Payroll shall develop appropriate procedures for paying leave hours and complying with CalPERS rules for reporting leaves under this program.
 - 6.2. This program shall operate in coordination with existing City leave policies and benefits, telecommuting policies, and legal requirements as appropriate. Use of approved EPSL will not be considered in assessing compliance with City of Anaheim Administrative

Regulation (A.R.) 286 concerning attendance standards. Furthermore, the City will treat EPSL leave in the same manner it treats Family Medical Leave Act (FMLA), Pregnancy Disability Leave (PDL), and other qualifying leaves as counting towards eligibility for Affordable Care Act (ACA) health insurance for part-time employees.

6.3. The paid leave benefits established by this policy shall run concurrent to any paid benefit programs mandated by the federal or state government specifically in response to the COVID-19 outbreak and containment efforts to the extent allowable.

6.4. An **employee is eligible for paid sick time** under this program to the extent the employee is unable to work or telework due to a need for leave because:

6.4.1. The **employee is subject to a Federal, State, or local quarantine or isolation** order related to COVID-19.

6.4.2. The **employee has been advised by a health care provider to self-quarantine** due to concerns related to COVID-19.

6.4.3. The **employee is experiencing symptoms of COVID-19 and is seeking medical diagnosis.**

6.4.4. The **employee is caring for an individual who is subject to an order** described in subparagraph (6.4.1) or has been advised as described in subparagraph (6.4.2)

6.4.5. The **employee is caring for a son or daughter** of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions. Son and daughter as used in this section shall be subject to the definition under the Family Medical Leave Act and in accordance with Department of Labor guidance under the FFCRA to include but not be limited to a biological, adopted, or foster child, stepchild, legal ward, child for whom the employee has standing in loco parentis, or adult son or daughter who (1) has a mental or physical disability, and (2) is incapable of self-care because of the disability.

6.4.6. 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 Secretary of Labor.

6.4.7. Under the EPSL Act, health care employees and emergency responders may be excluded from eligibility for this leave. The City elects to extend coverage to such employees under this policy subject to the terms, conditions, and limits herein.

6.4.8. **Maximum hours of eligibility for EPSL and maximum value of paid EPSL time** is subject to the following limitations. Employees become eligible for leave under this program upon date of hire:

6.4.8.1. **Full time** employees shall be eligible for **80 hours** total EPSL.

6.4.8.1.1. The maximum any employee shall be paid under this provision for a use described in 6.4.1, 6.4.2 or 6.4.3 is **\$511 per day and \$5,110 in the aggregate**.

6.4.8.1.2. The maximum any employee shall be paid under this provision for a use as described in 6.4.4, 6.4.5 or 6.4.6 is the **lesser of two-thirds the employee's regular rate of pay multiplied by the eligible hours absent or \$200 per day with an aggregate maximum limit of \$2,000**. In the event the two-thirds the employee's regular rate of pay is less than minimum wage, the employee shall receive the minimum wage rate for each hour of absence under this provision.

6.4.8.2. **Part-time employees** shall be eligible for a number of EPSL hours equal to the number of hours that such employee works, on average, over a two week period. Part-time employees with irregular schedules shall be entitled to EPSL hours in an amount equal to the number of hours worked on average during the preceding six months, or portion thereof that the employee has worked for the City. Such part-time employee may take paid sick leave for the same number of hours per day for up to a two week period.

6.4.8.2.1. The maximum any employee shall be paid under this provision for a use described in 6.4.1, 6.4.2 or 6.4.3 is **\$511 per day and \$5,110 in the aggregate**.

6.4.8.2.2. The maximum any employee shall be paid under this provision for a use as described in 6.4.4, 6.4.5 or 6.4.6 is the **lesser of two-thirds the employee's regular rate of pay multiplied by the eligible hours absent or \$200 per day with an aggregate maximum limit of \$2,000**. In the event the two-thirds the employee's regular rate of pay is less than minimum wage, the employee shall receive the minimum wage rate for each hour of absence under this provision.

6.4.8.3. EPSL must be taken in full-day increments, unless the employee is telecommuting.

6.4.8.4. EPSL taken under 6.4.1, 6.4.2, 6.4.3, 6.4.4, and 6.4.6 cannot be taken intermittently.

- 6.4.8.5. The regular rate of pay used to calculate paid leave under this program shall be the average of the employee's regular rate over a period of the preceding six months prior to the date the employee takes the leave, or the portion of the preceding six months the employee was employed by the City.
- 6.4.9. EPSL does not carry over from one year to the next and has no cash value to the employee. The EPSL program ends December 31, 2020.
- 6.4.10. Eligibility for EPSL shall cease upon the employee's return to work following the need for leave or upon exhaustion of the total hours limit set forth in 6.4.8.
- 6.4.11. An employee is not required to search for or find a replacement to cover the employee's need for EPSL.
- 6.4.12. An employee may **return to work** following a period of EPSL under this section after presenting appropriate evidence of the ability to safely return to work. An employee continuing on leave may use his/her unused sick time. Appropriate evidence is generally considered to be a release by a medical provider. **Given the anticipated impact to medical providers and the Orange County Health Officer's Order dated March 18, 2020 directing employers not to require a note, the employee's department head, working in conjunction with Human Resources, shall authorize alternate appropriate return to work protocols as needed.**
- 6.4.13. An employee with available accrued leave balances may opt to use such accrued leave in lieu of EPSL paid time to receive full pay for time off. Use of accrued leave balances to supplement EPSL paid time is not allowed.
- 6.4.14. An employee continuing on leave beyond the period of EPSL may use his/her unused sick time to receive full pay. If an employee does not have a sick leave balance, unused vacation time or comp time may be used. If the employee has no accrued leave, time off shall be Leave Without Pay.
- 6.4.15. An employee who separated from work, is laid off, or furloughed at the time the need for leave exists, is not eligible for benefits under the program.
7. **PUBLIC HEALTH EMERGENCY LEAVE:** Effective April 1, 2020, in compliance with the **Families First Coronavirus Response Act and the Emergency Family and Medical Leave Expansion Act (EFMLEA)**, the City will implement a **Public Health Emergency Leave (PHEL)** program.
- 7.1. The Finance Department/Payroll shall develop appropriate procedures for paying leave hours and complying with CalPERS rules for reporting leaves under this program.

- 7.2. This program shall operate in coordination with existing City leave policies and benefits, telecommuting policies, and legal requirements as appropriate. Use of approved PHEL will not be considered in assessing compliance with A.R. 286 concerning attendance standards. Furthermore, the City will treat PHEL leave in the same manner it treats FMLA, PDL, and other qualifying leaves as counting towards eligibility for ACA health insurance for part-time employees.
- 7.3. The paid leave benefits established by this policy shall run concurrent with any paid benefit programs mandated by the federal or state government including those specifically enacted in response to the COVID-19 outbreak and containment efforts to the extent allowable. Under, EMFLEA, FMLA protected time used by the employee in an applicable 12 month measurement period shall be counted against the number of hours available for PHEL time. The City elects to extend PHEL to all eligible employees and not have any PHEL usage count toward protected time off under FMLA within a 12 month period.
- 7.4. In accordance with the EFMLEA, this program will expire on December 31, 2020.
- 7.5. An **employee is eligible for paid time** under this program to the extent the 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 of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable, due to a public health emergency**. PHEL shall be provided under the following terms:
- 7.5.1. Son and daughter as used in this section shall be subject to the definition under the Family Medical Leave Act and in accordance with Department of Labor guidance under the FFCRA to include but not be limited to a biological, adopted, or foster child, stepchild, legal ward, child for whom the employee has standing in loco parentis, or adult son or daughter who (1) has a mental or physical disability, and (2) is incapable of self-care because of the disability.
- 7.5.2. An employee shall become eligible for PHEL **after the first 30 days of employment and upon submission of evidence of day care or school closure**.
- 7.5.3. The **first ten days of PHEL** shall be unpaid. An employee may elect to use available EPSL, sick leave, vacation, or comp time to receive pay for the first ten days.
- 7.5.4. Under the EFMLEA Act, health care employees and emergency responders may be excluded from eligibility for this leave. The City elects to extend coverage to such employees under this policy such to the terms, conditions, and limits set forth herein.

7.5.5. **Maximum hours of eligibility and maximum value of paid PHEL time** is subject to the following limitations:

7.5.5.1. In accordance with Department of Labor guidance, eligible hours paid per week include hours normally scheduled to work even if more than 40 hours per week, subject to the daily and aggregate limits in 7.5.5.2 and 7.5.5.3.

7.5.5.2. **Full time** employees shall be eligible for 12 weeks total PHEL, inclusive of the first ten unpaid days.

7.5.5.2.1. The maximum any employee shall be paid under this provision is the **lesser of either (1) two-thirds the employee's regular rate of pay multiplied by the eligible hours absent or (2) \$200 per day with an aggregate maximum limit of \$10,000**. In the event the two-thirds the employee's regular rate of pay is less than minimum wage, the employee shall receive the minimum wage rate for each hour of absence under this provision.

7.5.5.3. **Part-time employees** shall be eligible for 12 weeks total PHEL, inclusive of the first ten unpaid days, with the number of PHEL hours available per week equal to the number of hours that such employee works, on average, over a two week period. Part-time employees with irregular schedules shall be entitled to PHEL hours in an amount equal to the number of hours worked on average during the preceding six months, or portion thereof that the employee has worked for the City. Such part-time employee may take paid PHEL leave for the same number of hours per day for up to a ten week period following the first two weeks of unpaid time.

7.5.5.3.1. The maximum any employee shall be paid under this provision is the **lesser of either (1) two-thirds the employee's regular rate of pay multiplied by the eligible hours absent or (2) \$200 per day with an aggregate maximum limit of \$10,000**. In the event the two-thirds the employee's regular rate of pay is less than minimum wage, the employee shall receive the minimum wage rate for each hour of absence under this provision.

7.5.6. The regular rate of pay used to calculate paid leave under this program shall be the average of the employee's regular rate over a period of the preceding six months prior to the date the employee takes the leave, or the portion of the preceding six months the employee was employed by the City.

7.5.7. PHEL time may be used intermittently under this program.

- 7.5.8. An employee with available accrued leave balances may opt to use such accrued leave in lieu of PHEL paid time to receive full pay for time off. Use of accrued leave balances to supplement PHEL paid time is not allowed.. In addition, to the extent allowed under the law, use of accrued leave in lieu of PHEL paid leave shall not extended the total of 12 weeks of protected time established under the EFMLEA.
- 7.5.9. The probation period for an employee off work for an extended period of time under this program shall be adjusted in the same manner as used for sick leave absences during a probation period.
- 7.5.10. An employee who separated from work, laid off, or furloughed at the time the need for leave exists, is not eligible for benefits under the program.

8. **EMERGENCY WORKFORCE RETENTION LOCAL PROGRAM:** Effective April 1, 2020, if a City employee's **job responsibilities are temporarily suspended due operational closures or reduction in service related to the COVID-19 outbreak**, the employee will be eligible for one of the following Emergency Workforce Retention (EWR) options:

- 8.1.1. The employee shall be temporarily **reassigned** to a similar position or to a position with duties for which the employee is minimally qualified and appropriately trained and the employee agrees to accept the alternate duties without change of classification.
- 8.1.2. If **telecommuting** is an option, the Department Director, or designee, shall determine if the employee is able to perform duties remotely and if so, the employee may, at the discretion of the Department Director, be assigned to work remotely in accordance with the Temporary Telecommuting Assignment Policy implemented by the City in March 17, 2020.

9. Each employee is encouraged to take actions in the best interests of their own health, the health of their co-workers, and the general public. Each department and manager is responsible for maintaining safe and healthy working conditions and ensuring that this policy is fairly and consistently followed. The programs established hereunder shall be administered in accordance with A.R. 243 addressing a workplace free from harassment, discrimination, and retaliation.