

TEMPORARY ADMINISTRATIVE POLICY 2020-43

SUBJECT: COVID-19 – Leave and Pay Policy

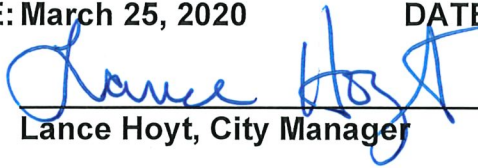
DATE ISSUED: March 25, 2020

REVISED: April 6, 2020

DATE EFFECTIVE: March 25, 2020

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APPROVED:


Lance Hoyt, City Manager

SECTION ONE – PURPOSE

The purpose of this emergency policy is to provide guidance and establish procedures for leave and pay for City employees during the effect of the City of Toppenish Declaration of Emergency for the COVID-19 Health Emergency. This policy amends Administrative Policy 2020-38.

1. To comply with the Families First Coronavirus Response Act (FFCRA) that becomes effective April 1, 2020. (4.1)
2. To establish pay for leave when a city facility is closed to personnel. (4.2)

SECTION TWO – AFFECTED PARTIES

- City Manager
- Police Officers, Dispatchers, Sergeants, Captain, & Chief
- Firefighters, Captain, & Chief
- Public Works Maintenance Technician, Grounds Maintenance Technician, WWTP Operators, Water Operator, Supervisor, and Superintendent.
- Other employees as identified by the City Manager based upon the changing needs of emergency

SECTION THREE – REFERENCES

Resolution 2020-07 Declaration of Emergency
Administrative Policy 2020-39 – Telecommuting
Toppenish Personnel Policy Chapter 7 – Sick Leave Policy
Toppenish Personnel Policy Chapter 8 – Vacation Leave Policy
Toppenish Personnel Policy Chapter 11 – Family Medical Leave Policy

SECTION FOUR – POLICY

- 4.1 The Families First Coronavirus Response Act (FFCRA) went into effect on **April 1, 2020**. The FFCRA expands the FMLA by allowing eligible employees to take protected leave when they cannot work or telework because their child's school is closed due to a public health emergency.

In addition to the FFCRA the Federal Government has also established **Emergency Paid Sick Leave** of 80 hours that can be used during the first two weeks of the unpaid FFCRA. Emergency Responders may be excluded from the above benefits due to the need to maintain public safety and ongoing operations. Notwithstanding this, the City has elected to offer the following Emergency Sick Leave to Emergency Responders:

Under the Emergency Paid Sick, employees are entitled to use emergency paid sick leave for the following reasons:

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 is seeking a medical diagnosis;
4. The employee is caring for an individual who is subject to an order as described in (1) above or has been advised as described in (2) above;
5. The employee is cared for their child due to closure of the child's school or unavailability of the child's childcare provider due to COVID-19;
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

Termination of Benefit: Emergency paid sick leave available under this law does not carry over from one year to the next. The law further provides that paid sick leave provided under this law shall cease beginning with the employee's next scheduled work shift immediately following the termination of the need for paid sick time.

Cap on Sick Leave Amount: Where leave is taken for reasons (1), (2), or (3) above (which cover leave due to the employee's own health or quarantine), the sick leave benefit must be equal to the employee's regular rate of pay for the missed work time, provided that the sick leave can be capped at \$511 per day and \$5,110 in the aggregate when leave is taken for one of these reasons.

Where leave is taken for reasons (4), (5), or (6) above (to care for another, to care for a child due to a school closure or unavailability of childcare, or where the employee is experiencing a substantially similar condition), the required sick leave benefit is two-thirds of the employee's regular rate of pay, provided that sick leave can be capped at \$200 per day and \$2,000 in the aggregate when leave is taken for one of these reasons.

Per Department of Labor guidance, where an employee is not telecommuting, intermittent use of Emergency Sick Leave is not permitted when the leave is taken for reasons (1), (2), or (3) above. In such cases, Emergency Sick Leave must be taken in full-day increments and once leave is initiated for one of these reasons, the employee must continue to use Emergency Sick Leave until either (i) the full amount of Emergency Sick Leave has been used; or (ii) the employee no longer has a qualifying reason for taking Emergency Sick Leave. The Department of Labor has explained that the requirement is imposed because if an employee is actually or possibly sick with COVID-19, or is caring for someone who is sick or possibly sick with COVID-19, the intent of the law is to provide paid leave to prevent the spread of the virus.

Procedure for Requesting Leave

Emergency Sick Leave: An employee who needs to take Emergency Sick Leave should notify Human Resources as soon as practicable. After the first workday (or portion thereof that an employee takes Emergency Sick Leave, the employee must follow notice requirements (verification) for continued use of leave.

Verification: An employee requesting Emergency Sick Leave must complete the Families First Coronavirus Response Act Affidavit to specify the qualifying reason for requesting leave under the FFCRA; state that the employee is unable to work or telework, for that specified reason; and provide the date(s) for which leave is requested.

The Department of Labor also requires that the City obtain documentation supporting the leave request. Examples of documentation for qualifying reasons may include but is not limited to:

1. A copy of the federal, state or local quarantine or isolation order related to COVID-19 for employee; or
2. Written documentation from a health care provider advising the individual to self-quarantine due to COVID-19 for employee; or
3. Documentation of upcoming medical appointment for employee or individual being cared for; or
4. Documentation from the employee's child's school or childcare provider of closure (such as website posting or email).

- 4.2 In the event that a **City facility is closed** to personnel, and personnel are subject to quarantine by order of the City Manager or state or federal official, employees of that facility are eligible to receive Emergency Paid Sick Leave. FLSA overtime exempt employees assigned to telecommute during the ordered closure will receive premium pay (equal to employee's regular hourly rate), in addition to their regular salary for all hours worked during the closure. (Telecommute Policy applies.)

SECTION FIVE – TERMINATION

This order will remain in effect until December 31, 2020. Any unused Emergency Sick Leave or PHEL/FMLA will not be carried over to the next calendar year or merged into other leave banks. Additionally, the entitlement to Emergency Sick Leave ceases beginning with the employee's next scheduled work shift immediately following the termination of the need for paid sick leave.

However, to the extent an employee subsequently needed additional time off for another covered reason prior to December 31, 2020, the employee could use any remaining Emergency Sick Leave available.

City of Toppenish
Families First Coronavirus Response Act (FFCRA) Leave Request

An employee must complete this form to request leave under the FFCRA, whether Emergency Paid Sick Leave (EPSL) or Public Health Emergency Leave-FMLA (PHEL/FMLA). The completed form should be submitted to HR (Lily) as soon as reasonably practical once the need for leave arises.

Employee Name:
Contact Information During Leave: E-mail address: _____ Cell phone: _____ Other: _____
Date(s) of Requested Leave:
Reason(s) for Leave: I represent that I am unable to work or telework due to one or more of the following reasons (check all that apply): <input type="checkbox"/> I am subject to a federal, state, or local quarantine or isolation order related to COVID-19. Government entity that issued order: _____ <input type="checkbox"/> I have been advised by a health care provider to self-quarantine due to concerns related to COVID-19. Name of health care provider: _____ <input type="checkbox"/> I am experiencing symptoms of COVID-19 and am seeking a medical diagnosis. <input type="checkbox"/> I am needed to care for an individual who is subject to a quarantine or isolation order based on a federal, state or local order or the advice of a health care provider. Government entity or health care provider that issued order or advice: _____ Name of individual needing care and relationship to me: _____ <input type="checkbox"/> I am needed to care for my child because of the closure of my child's school or unavailability of my child's childcare provider due to COVID-19; I represent that no other suitable person will be providing care for the child while I am taking leave. Name(s) and ages of child(ren) being cared for: _____ Name of school(s) and/or childcare provider(s): _____ If my child is over age 14 and I am needed to provide care during daylight hours, the following special circumstances exist justifying the need for care: _____ _____ _____

Intermittent Leave: FFCRA leave may be taken intermittently only with employer approval and where leave is taken in connection with teleworking and/or due to the need to care for a child due to school closure or unavailability of a childcare provider. Intermittent leave requests will be considered on a case-by-case basis, subject to operational needs. If you are seeking intermittent leave for one of these reasons, please specify the requested intermittent leave schedule:

Supplementation with Accrued Leave: During certain kinds of FFCRA leave, an employee will be paid two-thirds of regular pay (see FFCRA policy). The following shall apply to such leave (only boxes checked by employer apply):

- When using EPSL and receiving two-thirds of regular pay, employees may not supplement this benefit with accrued leave.
- When using EPSL and receiving two-thirds of regular pay, employees may elect to supplement this benefit with accrued leave.

If box is checked by employer, please indicate whether you are electing to supplement with accrued leave and, if so, which type of accrued leave you are electing to use:

- I am not electing to supplement FFCRA benefits with my accrued leave
- I am electing to supplement FFCRA benefits with my accrued leave as follows:

Certification

I certify that the information I provided above is true and correct.

Employee Signature: _____

Date: _____