



Conor Baldwin
Chief Financial Officer

MEMORANDUM

TO: Eileen M. Donoghue, City Manager *EMD*
FROM: Conor Baldwin, Chief Financial Officer *[Signature]*
CC: Mary Callery, HR Director
Christine O'Connor, City Solicitor
DATE: April 7, 2020

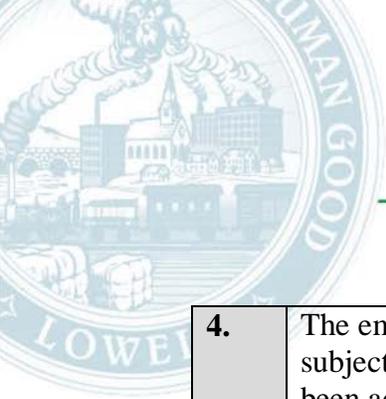
SUBJECT: MOTION RESPONSE: 3/24/2020 by C. Drinkwater - Req. City Mgr. Update The Uniform Catastrophic Sick Bank Policy To Make Employees Eligible For Up To 30 Days Of Leave Due To COVID-19 Infection, Quarantine Or Isolation As Directed By A Physician Or Authorized Public Health Authority.

On March 18, 2020, the President signed into law the Families First Coronavirus Response Act ('FFCRA'), which requires certain employers (including municipalities) to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's ('DOL') administers and enforces the new law's paid leave requirements. These provisions will apply from the effective date of April 1, 2020 through December 31, 2020.

After passage of the above referenced motion by the City Council, the City Manager convened a working group including the law department, HR, and finance to review the relevant information and to prepare any necessary documents for the City of Lowell to maintain compliance with the new regulations, discuss the logistics of implementation for payroll purposes, and to promulgate necessary information to Department Heads so they may inform their employees of the expanded coverage.

According to the DOL, the Act generally provides that employees of covered employers are eligible for the following:

	Reason	Entitlement
1.	The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19	Up to 80 hours sick leave at full pay
2.	The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19	Up to 80 hours sick leave at full pay
3.	The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis	Up to 80 hours sick leave at full pay



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4.	The employee is caring for an individual who is subject to an order as described in (1) or who has been advised as described in (2).	Up to 80 hours sick leave at two-thirds pay
5.	The employee is caring for their child if the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions	Up to 80 hours sick leave at two-thirds pay; then up to 12 additional weeks of FMLA leave, the first two of which are unpaid and the following ten of which are paid at two-thirds pay. ¹
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.	Up to 80 hours sick leave at two-thirds pay

An informational flier, prepared by the Department of Labor (*attached*), was distributed to all employees via “broadcast” email and has been posted in conspicuous places in HR and other satellite locations. For employees who do not have email, Department Heads have been directed to disseminate hard copies of the attached informational flyer. At a meeting of all Department Heads conducted via teleconference on April 1, 2020, a “Q&A” session was held to respond to initial questions posed by employees and to provide initial guidance from the City Manager’s Office, HR, legal, and finance. A group mailbox with a city email address was also established for employees of the city to submit questions if they arise and is monitored regularly by staff in the law department and HR to handle ongoing questions regarding eligibility and documentation.

In order to properly track and account for payroll expenses related to leave, as well as to ensure COVID-19 leave is not deducted from employees’ own accrued time, the group has worked with the City Auditor and payroll department to implement new codes in the MUNIS system to handle the expanded leave types. The FFCRA requires certain caps on paid leaves, depending on the types, but employees are able to supplement the paid leave with their own accruals.

The aforementioned policies and procedures are applicable specifically to the COVID-19 public health crisis and the federal law is effective only until December 31, 2020. However, there are some existing collective bargaining agreements like AFSCME 1705 and the firefighter’s union, which include provisions for a sick leave bank. There is not, however, an existing sick leave bank policy that applies to all employees. In order to implement an omnibus policy, several legal and financial logistics would need to be deliberated. Such a policy could be discussed and reviewed in more detail in a City Council Personnel subcommittee.

Please do not hesitate to let me know if there any questions.

¹ An employee may elect to use the first two weeks of their FMLA leave concurrent with paid sick leave, in which case the total amount of leave under FFCRA will be 12 weeks.

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at $\frac{2}{3}$ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

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|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
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▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd

