

CITY OF RACINE MAYORAL PROCLAMATION
FAMILIES FIRST CORONAVIRUS RESPONSE ACT POLICY

Effective April 1, 2020 through December 31, 2020

March 31, 2020

Whereas, on March 18, 2020, I proclaimed a public health emergency to exist in the City of Racine as a result of the threat of COVID-19; and

Whereas, COVID-19 continues to spread throughout the southeastern Wisconsin region, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

Whereas, the federal government recently passed the Families First Coronavirus Response Act (FFCRA), which created the Emergency Paid Sick Leave Act (EPSLA) for employees who are unable to work due to the direct impact of COVID-19; and

Whereas, the FFCRA further modified the scope of the Family and Medical Leave Act (FMLA) by creating the Emergency Family and Medical Leave Expansion Act (EFMLEA); and

Now therefore, in accordance with the power vested in me as Mayor of the City of Racine by Wisconsin Statutes sections 62.09(8)(a), 323.11, and 323.14(4), and by Racine Ordinance section 34-1, I do declare, proclaim, and order as follows:

This FFCRA policy will take effect on April 1, 2020 and expire upon the conclusion of the COVID-19 public health emergency or on December 31, 2020, whichever is earlier. This policy is subject to modification by the City as needed, and it may change in response to any new or revised federal, state, or local laws or guidance issued by the United States Secretary of Labor.

The City of Racine Employee Handbook and all collective bargaining agreements remain in effect. To the extent this policy conflicts with such Handbook and agreements, this policy shall be controlling during the extant public health emergency. Nothing in this policy shall be considered precedent-setting, and the entirety of this policy is subject to change as the COVID-19 situation evolves. This policy may be updated or terminated as changing circumstances warrant.

A notice issued by the Department of Labor explaining employee rights under the FFCRA can be found at: https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

I. Definitions

- A. **Health Care Providers:** The term “Health Care Providers,” as used in this Policy, are all active employees of the City of Racine Public Health Department.
- B. **Emergency Responders:** The term “Emergency Responders,” as used in this Policy, are all active employees of the City of Racine Police Department, Fire Department, Department of Public Works, Public Health Department, Mayor’s Office, City Administrator, Administrative Managers, the Assistant Finance Director, City Attorney’s Office, City Clerk’s Office, Management Information Systems, the Public Health Department, and Racine Water and Wastewater Utilities.
- C. **Son or Daughter:** The term “son or daughter,” as used in this policy, is an employee’s own child, which includes his/her biological, adopted, or foster child, stepchild, a legal ward, or a child for whom an employee is standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child. A “son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability.

II. The Emergency Paid Sick Leave Act (EPSLA)

The purpose of the EPSLA is to provide employees with a limited term paid sick leave benefit when their ability to work is directly impacted by COVID-19 under the specific circumstances set forth below.

- A. **Employee Eligibility:** All employees who are actively employed by the City of Racine are eligible for Emergency Paid Sick Leave under the EPSLA. City of Racine Health Care Providers and Emergency Responders are eligible for EPSLA benefits.
- B. **Qualifications:** The employee must be unable to work or telecommute 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 (fever, cough, sore throat, shortness of breath) and is seeking a medical diagnosis;
 - 4. The employee is caring for an individual subject to an order as described in II.B.1. or has been advised as described in II.B.2.;
 - 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; *or*
 - 6. The employee is experiencing any other substantially similar condition to COVID-19 as specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

C. **Pay During Leave:** The amount of Emergency Paid Sick Leave available to eligible employees under the EPSLA is allocated as follows:

- Regular Full-Time employees will be eligible for 80 hours of Emergency Paid Sick Leave.
- Regular Part-Time employees will receive a pro-rated Emergency Paid Sick Leave benefit based on their average number of hours worked over a regular bi-weekly pay period.
- Other employees who work a variable work schedule will receive a pro-rated Emergency Paid Sick leave benefit based on the average bi-weekly hours of work over the six-month period preceding the start date of the leave, including hours for which the employee took leave of any type.

The actual pay to which an employee will be entitled will depend on the reason for the absence.

1. If absent due to reasons identified under II.B.1., 2., or 3., employees will be entitled to receive their regular rate of pay, up to \$511 per day and/or a maximum aggregate payment of \$5,110 total.
2. If absent due to reasons identified under II.B.4., 5., or 6., employees will be entitled to receive 2/3 of their regular rate of pay, up to \$200 per day and/or a maximum aggregate payment of \$2,000 total.

D. **Benefits During Leave:** While using Emergency Paid Sick Leave, an employee will continue to receive benefits as if the employee is actively working. Standard payroll deductions will also continue as if the employee is actively working.

E. **Procedure for Requesting Leave and Certification:** Employees must follow their department's standard sick leave call in procedures and notice requirements when requesting to use Emergency Paid Sick Leave. After the first workday an employee receives Emergency Paid Sick Leave, their Department Head may require the employee to follow reasonable notice procedures on a daily basis in order to continue receiving Emergency Paid Sick Leave for subsequent days' absences.

Eligible employees may take Emergency Paid Sick Leave on an intermittent basis only if the following three conditions are met: (1) 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; (2) the employee submits a written request to his/her supervisor asking to take such leave on an intermittent basis; *and* (3) the employee's supervisor approves the request prior to the start of the intermittent leave.

Employees shall complete a FFCRA Request form that will be used specifically for the purposes of administering the FFCRA. Forms can be requested by calling Human Resources at 262-636-9175, emailing humanresources@cityofracine.org, or printing the form from the City's website at: <https://cityofracine.org/Departments/Human-Resources/Employees-and-Retirees/Forms-and-Policies/>. Completed forms can be returned to Human Resources by emailing humanresources@cityofracine.org, or by mailing the form to City of Racine – Human Resources Department, 730 Washington Ave., Room 204, Racine, WI 53403. In compliance with the recommended social distancing, please do not physically go to the Human Resources Department if at all possible.

The FFCRA Request form specifies that employees will be required to provide documentation from a medical provider to certify the need for certain absences under the EPSLA. Upon review of an employee's FFCRA Request and supporting documentation, Human Resources will contact an employee if additional documentation is required.

- F. **Treatment of Emergency Paid Sick Leave:** Emergency Paid Sick Leave is independent of and in addition to any other paid sick leave that City employees may accrue throughout the normal course of their City service. While the City's FFCRA Policy is in effect, City employees will not be required to use other accrued paid sick leave or paid time off before using Emergency Paid Sick Leave for a qualifying reason. Beginning on April 1, 2020, the full amount of Emergency Paid Sick Leave hours for which an employee is eligible is available for immediate use for a qualifying reason.

An employee may not carry over any unused Emergency Paid Sick Leave after this policy has expired, nor will an employee get paid out for any unused Emergency Paid Sick Leave. Upon an employee's death, disability, retirement, or other separation from employment, any unused Emergency Paid Sick Leave is forfeited.

- G. **Return to Work:** After reviewing an employee's FFCRA Request form, Human Resources will contact the employee if s/he will be required to provide a return-to-work authorization to Human Resources prior to being allowed to return to work. Employees who experience symptoms of COVID-19 (cough, fever, sore throat, shortness of breath, etc.) must be symptom free for 72-hours prior to returning to work without using fever reducing medications (e.g., Ibuprofen or Acetaminophen), the employee's respiratory symptoms must have abated (e.g., a cough or shortness of breath have improved), and at least 7 days must have passed since an employee's symptoms first appeared. Employees may be required to use other forms of leave if they exhaust their Emergency Paid Sick Leave prior to being authorized to return to work.
- H. **Enforcement:** The City shall not discharge, discipline, or in any other manner discriminate against any employee who takes Emergency Paid Sick Leave in accordance with the FFCRA or files any complaint or institutes or causes to be instituted any proceeding under or related to the FFCRA.

Employees who provide the City with falsified, fraudulent, inaccurate, or untruthful documentation, statements, or other information to qualify for the use of Emergency Paid

Sick Leave will be subject to discipline, up to and including termination and prosecution under applicable local, state, and/or federal laws.

III. Emergency Family and Medical Leave Expansion Act (EFMLEA):

- A. **Employee Eligibility:** All active City of Racine employees who have been employed by the City for at least 30 calendar days, may be eligible to qualify for EFMLEA benefits. City of Racine Health Care Providers and Emergency Responders are **not** eligible for EFMLEA benefits.
- B. **Qualifications:** An eligible employee may qualify for EFMLEA if the employee is unable to work or telecommute due to a need for leave to care for the employee's son or daughter under 18 years of age if the School or place of care has been closed, or the Child Care Provider of the employee's son or daughter is unavailable, due to the COVID-19 public health emergency.
 - 1. **Child Care Provider:** The term "Child Care Provider," as used in III.B. above, means a provider who receives compensation for providing child care services on a regular basis.
 - 2. **School:** The term "School," as used in III.B. above, means an elementary school or secondary school.
- C. **Pay During Leave:** The EFMLEA provides for time away from work for up to 12 weeks for a qualifying childcare need. The first ten (10) work days of EFMLEA leave is unpaid; however, an employee may elect to use the Emergency Paid Sick Leave Benefit outlined in II. above, or any other accrued paid time off during this time if available. The employee will not be required to substitute pay for the first 10 days of unpaid leave. After the tenth unpaid work day, the employee will be eligible for pay from the City of Racine equal to 2/3 of the employee's regular rate of pay for the remainder of the available EFMLEA leave associated with the qualifying COVID-19 reason, not to exceed a daily cap of \$200 and aggregate cap of \$10,000. Employees who use all 12 weeks of paid leave under both the EPSLA and the EFMLEA to care for a child whose School or place of care is closed, or Child Care Provider is unavailable due to COVID-19 related reasons are subject to a daily cap of \$200 and an aggregate cap of \$12,000 for the entire 12 weeks of leave.

For Regular Full-Time employees, the paid leave opportunity will be based on the regular rate of pay of the employee for the hours the employee would normally work. Regular Part-Time employees' pay eligibility will be based on their regular hours worked per week. Pay eligibility for other employees who work a variable schedule will be based on their average hours worked in the preceding six months.

Employer-paid EFMLEA leave is allowed **only** for the reason of closure of the child's School or Child Care Provider and need to provide child care due to the public health emergency and not allowed for other FMLA reasons.

An employee may be eligible for regular FMLA leave if they have a COVID-19 diagnosis and they meet the normal requirements of the FMLA. An employee who is not ill but merely quarantined because of coming into contact with COVID-19 would not be eligible for EFMLEA or regular FMLA.

It is important to note that while an employee is entitled to 12 weeks of leave under the EFMLEA, the length of the leave is reduced by any FMLA Leave previously taken by the employee during the calendar year—this is not a separate 12-week entitlement. In other words, the amount of EFMLEA leave taken for childcare purposes is automatically reduced by the amount of state and/or federal FMLA leave an employee has already taken in the current calendar year, without regard to the reason for the previous leave. Similarly, any leave taken under the EFMLEA will be counted towards the maximum allotment of annual state and/or federal FMLA leave for which an employee may be eligible.

- D. **Benefits During Leave:** While using EFMLEA, an employee will continue to receive benefits as if the employee is actively working. Standard payroll deductions will also continue as if the employee is actively working.
- E. **Employee Status after Leave:** The FMLA's job protected leave requirements and anti-retaliation provisions also apply to EFMLEA.
- F. **Procedure for Requesting Leave and Certification:** Employees shall complete a FFCRA Request form that will be used specifically for the purposes of administering the FFCRA. Forms can be requested by calling Human Resources at 262-636-9175, emailing humanresources@cityofracine.org, or printing the form from the City's website at: <https://cityofracine.org/Departments/Human-Resources/Employees-and-Retirees/Forms-and-Policies/>. Completed forms can be returned to Human Resources by emailing humanresources@cityofracine.org, or by mailing the form to City of Racine – Human Resources Department, 730 Washington Ave., Room 204, Racine, WI 53403. In compliance with the recommended social distancing, please do not physically go to the Human Resources Department if at all possible.

Eligible employees may take EFMLEA on an intermittent basis only if the following three conditions are met: (1) 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; (2) the employee submits a written request to his/her supervisor asking to take such leave on an intermittent basis; *and* (3) the employee's supervisor approves the request prior to the start of the intermittent leave.

Employees will be contacted by Human Resources in the event that additional documentation is required to certify their need for EFMLEA leave.

- I. **Treatment of EFMLEA:** Paid EFMLEA leave is independent of and in addition to any other paid sick leave that City employees may accrue throughout the normal course of their City service. An employee may not carry over any unused EFMLEA leave after this policy

has expired, nor will an employee get paid out for any unused EFMLEA leave. Upon an employee's death, disability, retirement, or other separation from employment, any unused EFMLEA leave is forfeited.

- G. **Return to Work:** Employees will not be required to provide a return-to-work notice after taking EFMLEA leave unless specifically requested by Human Resources. Employees who experience virus symptoms (cough, fever, sore throat, shortness of breath, etc.) must be symptom free for 72-hours prior to returning to work without using fever reducing medications (e.g., Ibuprofen or Acetaminophen), the employee's respiratory symptoms must have abated (e.g., a cough or shortness of breath have improved), and at least 7 days must have passed since an employee's symptoms first appeared. Employees may be required to use other forms of leave prior to being authorized to return to work.
- J. **Enforcement:** The City shall not discharge, discipline, or in any other manner discriminate against any employee who takes EFMLEA in accordance with the FFCRA or files any complaint or institutes or causes to be instituted any proceeding under or related to the FFCRA.

Employees who provide the City with falsified, fraudulent, inaccurate, or untruthful documentation, statements, or other information to qualify for the use of EFMLEA will be subject to discipline, up to and including termination and prosecution under applicable local, state, and/or federal laws.

Dated at Racine, Wisconsin, this 31st day of March, 2020.


Cory Mason, Mayor