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<p>TITLE: <i>Families First Coronavirus Response Act</i></p>		

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (“FFCRA”) may require employers to provide eligible employees: (i) public health emergency leave (“PHEL”) pursuant to the Emergency Family and Medical Leave Expansion Act (“EFMLEA”); and/or (ii) emergency paid sick leave (“EPSL”) pursuant to the Emergency Paid Sick Leave Act (“EPSLA”).

This policy is effective April 1, 2020, and will remain in effect until December 31, 2020.

If employees have any questions concerning this policy, they should contact Kelly Harper, Interim Human Resources Director.

You may also visit: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions> for more information.

EPSL

Eligibility. All employees are eligible for EPSL, other than emergency responders.

Amount of EPSL. Full-time employees will be granted eighty (80) hours of EPSL (or the equivalent of the average number of hours over two weeks for part-time employees) available for immediate use. EPSL is provided in addition to any other paid time off or paid leave as otherwise provided by the City of Portsmouth.

Usage. EPSL is available immediately upon hire.

Employees unable to work (or telework) may use EPSL 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 healthcare provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
5. The employee is caring for their son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of the son or daughter is unavailable, due to COVID-19 precautions.
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.

An employee’s use of EPSL will not be conditioned upon searching for or finding a replacement worker.

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The City of Portsmouth will not require an employee to use paid time off or paid leave provided by the City of Portsmouth before the employee uses EPSL.

EPSL provided to an employee will end beginning with the employee's next scheduled work shift immediately following an employee's exhaustion of EPSL or the termination of the need for EPSL.

Notice. Employees must provide the City of Portsmouth with notice of the need for EPSL as soon as practicable. Following the emergency workday (or portion thereof) that an employee receives EPSL, employees must follow reasonable notice procedures as determined by the City of Portsmouth in order to continue received EPSL.

Payment. EPSL used for reasons 1-3 above will be paid at the greater of: (i) the employee's regular rate of pay as determined under the FLSA; (ii) minimum wage as determined under the FLSA, or (iii) minimum wage under applicable state or local law in which the employee is employed. Nonetheless, EPSL used for reasons 1-3 above is subject to a cap of \$511 per day and \$5,110 in the aggregate. EPSL used for reasons 4-6 above will be paid at two-thirds (2/3rds) of the greater of: (i) the employee's regular rate of pay as determined under the FLSA; (ii) minimum wage as determined under the FLSA, or (iii) minimum wage under applicable state or local law in which the employee is employed. Nonetheless, EPSL used for reasons 4-6 above subject to a cap of \$200 per day and \$2,000 in the aggregate. Use of EPSL is not considered hours worked for purposes of calculating overtime.

What does this actually mean?

1. **Any employee (other than emergency responders) who are subject to a local quarantine or isolation related to COVID-19, outside of workers compensation, will be paid for two weeks at their regular base pay, not utilizing any of their own leave time. A daily cap of \$511 and max of \$5,111 will be in place for the period of this leave. Meaning, if you receive a daily rate of pay of more than \$511, you will be capped at this amount. You will not receive more than \$5,111 for the two weeks of pay.**

2. **Any employee (other than emergency responders) who has been advised by their health care provider to self-quarantine related to COVID-19, will be paid for two weeks at their regular base pay, not utilizing any of their own leave time. A daily cap of \$511 and max of \$5,111 will be in place for the period of this leave. Meaning, if you receive a daily rate of pay of more than \$511, you will be capped at this amount. You will not receive more than \$5,111 for the two weeks of pay.**

3. **Any employee (other than emergency responders) who has COVID-19 symptoms and is seeking a medical diagnosis, will be paid for two weeks at their regular pay, not utilizing any of their own leave time. A daily cap of \$511 and max of \$5,111 will be in place for the**

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period of this leave. Meaning, if you receive a daily rate of pay of more than \$511, you will be capped at this amount. You will not receive more than \$5,111 for the two weeks of pay.

4. Any employee (other than emergency responders) who is caring for an individual subjected to a local quarantine or self-quarantine related to COVID-19, will be paid 2/3 of their daily base pay, up to \$200 for two weeks. Individuals who wish to utilize their leave time to make their pay whole during this time, may do so. You will be charged for 1/3 a day for every day of that two weeks. A daily cap of \$200 and max of \$2,000, will be in place for the period of this leave.

5. Any employee (other than emergency responders) who is caring for his/her child whose school or place of care is closed due to COVID-19 related reasons, may take up to 12 weeks of leave, having all 12 weeks paid and not utilizing any leave time at 2/3 of their daily base pay, up to \$200. If you wish to utilize your leave time to make you whole, you may do so and will be charged 1/3 a day for every day used. A daily cap of \$200 and max of \$10,000, will be in place for the period of this leave.

Please note, this does not apply to any current employee who is currently telecommuting above and beyond what you are already being compensated for.

Carryover and Payout. EPSL will not carryover over from one year to the next. Additionally, unused EPSL will not be paid out at separation.

Prohibited Acts. It shall be unlawful for any employer to discharge, discipline, or in any other manner discriminate against any employee who:

- takes leave in accordance with this EPSLA; and
- has filed any complaint or instituted or caused to be instituted any proceeding under or related to this EPSLA (including a proceeding that seeks enforcement of this EPSLA), or has testified or is about to testify in any such proceeding.

PHEL (Addendum to FMLA)

This policy supplements the City of Portsmouth’s federal Family and Medical Leave Act policy and provides employees information concerning PHEL entitlements and obligations that differ from the general FMLA entitlements and obligations that are set forth elsewhere in this handbook. The City will apply its general FMLA policies and procedures in accordance with regulations issued under the FFCRA.

Eligibility Requirements. For purposes of PHEL only, employees, other than emergency responders, are eligible if they have worked for the City of Portsmouth’s for at least thirty (30) calendar days.

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Basic Leave Entitlement. The FMLA provides eligible employees up to twelve (12) workweeks of unpaid leave for certain family and medical reasons during a 12-month period. The EFMLEA expands the FMLA to provide PHEL eligible employees who are unable to work or telework with up to twelve (12) workweeks of PHEL due to a need to care for the employee’s son or daughter (under 18 years of age) if the child’s elementary or secondary school or place of care has been closed, or the childcare provider of such son or daughter is unavailable, due to a public health emergency. A “child care provider” means a provider who receives compensation for providing child care services on a regular basis. A “public health emergency” means an emergency with respect to COVID-19 declared by a federal, state, or local authority.

If additional PHEL is needed, paid leave will be provided and will be calculated based on an amount of two-thirds (2/3rds) the employee’s regular rate of pay as determined under the FLSA and the number of hours the employee would otherwise be normally scheduled to work. For employees whose schedule varies from week to week to such an extent that the City of Portsmouth is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken PHEL, employees will be paid based on the average number of hours that the employee was scheduled per day over the six-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type. If the employee did not work over such period, paid PHEL will be based on the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work. Nonetheless, paid PHEL will be capped of \$200 a day and \$10,000 in aggregate.

What does this actually mean?

- 1. Any employee (other than emergency responders) who is caring for his/her child whose school or place of care is closed due to COVID-19 related reasons, may take up to 12 weeks of leave, having all 12 weeks paid and not utilizing any leave time at 2/3 of their daily base pay, up to \$200. If you wish to utilize your leave time to make you whole, you may do so and will be charged 1/3 a day for every day used. A daily cap of \$200 and max of \$10,000, will be in place for the period of this leave.**

Job Benefits and Protection. As with FMLA leave, at the end of PHEL, employees generally have the right to return to the same or equivalent position with equivalent pay, benefits and other terms.

Employee Responsibilities. Employees must provide the City with notice of the need for leave under this policy as soon as practicable. Please contact, Kelly A. Harper, Interim Human Resources Director.