



230 NE Second Street, McMinnville, Oregon 97128
www.mcminnvilleoregon.gov

Temporary City Policy: Novel Coronavirus/COVID-19 Emergency Leave

In response to recent changes in federal law (the Families First Coronavirus Response Act and the Emergency Paid Sick Leave Act) and Oregon law (the Oregon Family Leave Act, per administrative regulation), the City of McMinnville issues the following temporary policy. This policy goes into effect April 1, 2020, and ends on December 31, 2020, unless specified below or unless the City of McMinnville announces a continuation of this policy in writing. This policy supersedes the City of McMinnville's previous Temporary Administrative Policy: COVID-19 Response, which expires March 31, 2020.

This policy does not replace the City of McMinnville's existing policies on FMLA, OFLA or sick leave, and should be read in conjunction with those policies. Questions about this policy and all related leave policies should be directed to the Human Resources Manager.

Paid Sick Leave for COVID-19 Issues

If an employee is unable to work or work remotely due a qualifying reason related to the COVID-19 pandemic, they will be eligible to take paid leave as described below. All employees are eligible for this type of leave with two exceptions that are identified below. This leave is in addition to all other paid leave employees accrue. Leave taken in accordance with this policy will not affect employees' accrued sick leave banks.

Exceptions

Emergency responders (police and fire) and employees providing critical infrastructure service (wastewater service employees) are excluded from taking COVID-19 Paid Sick Leave for reason 5, to care for an employee's son or daughter, and reason 6, to care for a substantially similar condition, as determined by the Secretary of Health and Human Services.

Qualifying Reasons for COVID-19 Paid Sick Leave

1. Quarantine — to comply with a federal, Oregon or local quarantine or isolation order related to COVID-19. This does not include situations where a city or county orders its residents to "shelter in place".
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2. Self-Quarantine — to self-quarantine, if the employee has been advised to do so by a local healthcare provider.
3. Diagnosis or Treatment — to obtain a medical diagnosis or treatment if the employee is experiencing symptoms of COVID-19.
4. Care for a Quarantined Individual — to care for an individual required to be quarantined or advised to be quarantined.
5. Child Care — to care for an employee's son or daughter if the son or daughter's school or child care provider has been closed or is unavailable due to COVID-19-related issues. See section "Family Medical Leave Act and Oregon Family Leave Act Policy for School Closures" for additional information regarding leave related to school closures.
6. Substantially Similar Care — to care for a substantially similar condition, as determined by the Secretary of Health and Human Services.

"Son or daughter" – For purposes of this paid sick leave, a "son or daughter" is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and "incapable of self-care because of a mental or physical disability" at the time FMLA leave is to commence.

Accrual of and Requesting COVID-19 Paid Sick Leave

Full-time employees are eligible to utilize up to 80 hours of COVID-19 Paid Sick Leave. Represented public safety employees with schedules that exceed 80 hours over the two week period are eligible for the equivalent of two weeks of COVID-19 Paid Sick Leave. The number of hours of COVID-19 Paid Sick Leave available to part-time employees depends on the number of hours the employee is scheduled to work during a two-week period, and may be calculated using the average number of hours worked in the six months leading up to the leave's start. As an example, if a part-time employee works, on average, 20 hours per week, the employee would be eligible for up to 40 hours of COVID-19 Paid Sick Leave.

Any unused COVID-19 Paid Sick Leave will not carry over into 2021. Employees will not be paid the value of any unused COVID-19 Paid Sick Leave if they quit, retire or are fired.

Although COVID-19 Paid Sick Leave is available to employees immediately, employees must follow the City of McMinnville's call-in procedures for regular sick leave. Speak with your supervisor if you are unaware of the call-in procedures in your department.

Further, employees will be expected to provide verification of the need for COVID-19 Paid Sick Leave, as follows:

1. Quarantine — A copy of the order from a federal, Oregon or local government entity requiring quarantine or isolation relating to COVID-19. This order must include the Employee's name or other identifying information sufficient to allow the City of McMinnville to conclude that the order affects a particular employee.
2. Self-Quarantine — Written verification of the need to self-quarantine from the employee's healthcare provider.

3. **Diagnosis or Treatment** — Written verification of the employee's effort to receive a medical diagnosis for COVID-19 or treatment if the employee is experiencing symptoms of COVID-19.
4. **Care for a Quarantined Individual** — A copy of the order or other documentation from a federal, Oregon or local government regarding the individual's requirement to be quarantined that includes the individual's name, or written verification of the need to quarantine from the individual's health care provider.
5. **Child Care** — No verification required for school closures due to COVID-19 issues if evidence of closure is publicly available. Written verification from the child care provider about its/their unavailability to provide child care due to COVID-19-related issues. See section "Family Medical Leave Act and Oregon Family Leave Act Policy for School Closures" for additional information regarding leave related to school closures.
6. **Substantially Similar Care** — Written verification of the employee's need to stay home from work from the employee's health care provider.

Caps on Value of COVID-19 Paid Sick Leave

For leave due to reasons (1), (2) or (3), above, an employee will earn the employee's regular rate of pay, capped at \$511 per day, for a maximum of \$5,110. For leave due to reasons (4), (5) or (6), above, an employee will earn 2/3 of the employee's regular rate of pay, capped at \$200 per day, for a maximum of \$2,000.

Employees who receive COVID-19 Paid Sick Leave may supplement this pay with accrued sick leave, vacation time, floating holiday, management leave, or comp time to meet their full salary expectations, but they will not be paid from both COVID-19 Paid Sick Leave and other leave for the same hours. In other words, supplementing COVID-19 Paid Sick Leave with other leave accruals will not exceed an employee's regular wages.

Emergency Family Medical Leave Expansion Act and Oregon Family Leave Act Policy for School Closures

Employees who have met the eligibility requirements below are eligible to receive paid or unpaid time off when the employee is unable to work (or work remotely) due to reason 5, a need to care for a son or daughter 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.

The leave of absence available under this policy, under FMLA and OFLA, will be referred to as "School Closure Leave", regardless of the terminology used in both laws.

Definitions

"Son or daughter" – For purposes of FMLA leave, a "son or daughter" is a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and

“incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence. For purposes of OFLA, “child” includes a biological, adopted, foster or stepchild, the child of a registered same-sex domestic partner or a child with whom the employee is in a relationship of in loco parentis. For purposes of OFLA, the “son or daughter” must be under the age of 18 or over 18 if incapable of self-care.

“Place of care” includes child care providers, and means a provider who receives compensation for providing child care services on a regular basis,

“School” means elementary or secondary school. Community college, university, college, or other post-secondary schools are not included.

Eligibility Requirements

EFMLEA: Employees who have worked for the City of McMinnville in the 30 calendar days leading up to the start of the School Closure Leave.

OFLA: Employees who have been employed for at least 180 days and worked an average of at least 25 hours per week leading up to the start of the School Closure Leave.

Length of Leave

EFMLEA: Up to 12 weeks of leave, to be taken any time during the period of April 1, 2020, and December 31, 2020. If a FMLA leave under this policy is started on December 1, 2020 (for example), the employee will not be allowed to continue the leave past December 31, even if the employee still has available FMLA leave.

OFLA: Up to 12 weeks of unpaid leave, to be taken any time during the period of March 18, 2020, to September 13, 2020. The 12 weeks of School Closure Leave must be used before September 13, 2020; no available School Closure Leave may be used after September 13, 2020.

School Closure Leave under these laws will run concurrently, where applicable. The City of McMinnville will apply the law that is most generous to the employee if the School Closure Leave runs concurrently.

Employees who have already exhausted 12 weeks of FMLA (prior to the emergency expansion act) or OFLA leave in the current calendar year may not be eligible to take an additional 12 weeks of School Closure Leave, depending on the employee’s eligibility under FMLA and OFLA.

Notice and Verification

EFMLEA: Where the necessity for public health emergency leave is foreseeable, an employee shall provide the employer with as much notice as practicable.

OFLA: Employees must provide at least 30 days' notice before School Closure Leave is to begin if the reason for leave is foreseeable. If 30 days' notice is not foreseeable or practical, an employee must give verbal or written notice to the City of McMinnville within 24 hours of commencement of the leave.

Under both laws' School Closure Leave, no verification is required for school closures due to a public health emergency if evidence of closure is publicly available. Written verification from the "place of care" about its/their unavailability to provide child care due to a public health emergency is required.

Benefits During Leave

EFMLEA: The first ten days of leave are unpaid; employees may, however, use COVID-19 Paid Sick Leave (for whichever qualifying reason applies to their situation) or any other accrued paid leave during this period. After the first ten days of School Closure Leave, and for each day thereafter, the City of McMinnville will provide paid leave calculated at two-thirds of the employee's regular rate of pay and the number of hours the employee would otherwise be normally scheduled to work. Paid leave under EFMLEA will not exceed \$200 per day, or \$10,000 in the aggregate. Note that combining COVID-19 Paid Sick Leave for reasons 4-6 for the first two weeks and EFMLEA leave for the following ten weeks will not exceed \$200 per day, or \$12,000 in the aggregate.

Employees who receive School Closure Leave may supplement their pay with accrued COVID-19 Paid Sick Leave, sick leave, vacation leave, management leave, or comp time under the City of McMinnville's policies, to meet their full salary expectations, but they will not be paid from both School Closure Leave and COVID-19/vacation/sick leave for the same hours. In other words, supplementing COVID-19 Paid Sick Leave with other leave accruals will not exceed an employee's regular wages.

OFLA: OFLA School Closure Leave is unpaid. Employees may, however, use any accrued paid leave during the period of OFLA School Closure Leave.

If an employee is on approved School Closure Leave under either or both laws, the City of McMinnville will continue the employee's health coverage under any "group health plan" on the same terms as if the employee had continued to work. An employee wishing to maintain health insurance during a period of approved School Closure Leave will be responsible for bearing the cost of their share of group health plan premiums which had been paid by the employee prior to the School Closure Leave. Employees will not accrue vacation, sick leave or other benefits (other than health insurance) while the employee is on a School Closure Leave. The leave period, however, will be treated as continuous service (i.e., no break in service) for purposes of vesting and eligibility to participate in the City of McMinnville's benefit plans.

Job Protection

EFMLEA and OFLA: Employees returning to work from School Closure Leave will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring School Closure Leave have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated School Closure Leave period, reinstatement may not be available unless the law requires otherwise.

No-Retaliation

The City of McMinnville prohibits retaliation against any employee who asks about, requests or uses School Closure Leave or COVID-19 Paid Sick Leave. Employees who engage in retaliation will be subject to discipline, up to and including termination.

Established 3/23/2020

Jeff Towery, City Manager

Attachment A: Novel Coronavirus/COVID-19 Employee Absence Form

City of McMinnville employees who need to be absent from work due to any of the reasons outlined in the six categories below AND are unable to work remotely, are required to complete and submit this form. **If you are able to work remotely, this form is not necessary. Talk with your supervisor to make appropriate arrangements.**

Once completed and submitted, this form will be retained in the employee's confidential file.

If you must be absent from work for any of the following six reasons, please complete this form and submit it to Human Resources.

Form Instructions:

1. Indicate which of the six reasons applies to you.
2. Submit the form via email to Human Resources
(kylie.bayer@mcminnvilleoregon.gov)
3. Supervisors – If an employee gives you the form please forward to HR; do not retain a copy of this form.

I am unable to come to work due to one or more of the following reasons:

- (1) *Quarantine* — A copy of the order from a federal, Oregon or local government entity requiring quarantine or isolation relating to COVID-19. This order must include the Employee's name or other identifying information sufficient to allow the City of McMinnville to conclude that the order affects a particular employee.
- (2) *Self-Quarantine* — Written verification of the need to self-quarantine from the employee's healthcare provider.
- (3) *Diagnosis or Treatment* — Written verification of the employee's effort to receive a medical diagnosis for COVID-19 or treatment if the employee is experiencing symptoms of COVID-19.
- (4) *Care for a Quarantined Individual* — A copy of the order or other documentation from a federal, Oregon or local government regarding the individual's requirement to be quarantined that includes the individual's name, or written verification of the need to quarantine from the individual's health care provider.
- (5) *Child Care* — No verification required for school closures due to COVID-19 issues if evidence of closure is publicly available. Written verification from the child care provider about its/their unavailability to provide child care due to COVID-19-related issues.
- (6) *Substantially Similar Care* — Written verification of the employee's need to stay home from work from the employee's health care provider.

I certify that I am unable to come to work because of one of the six reasons listed above. I understand that falsifying this form is grounds for disciplinary action up to and including termination.

Please list the reason you are unable to come to work: _____

Please attach the appropriate documentation from either a healthcare provider, of a child care provider, or a government order to this form.

Name:

Department:

Position:

Supervisor:

Email (work and personal):

Phone Number:

Date Submitted:

Date Received by HR: