

**CITY OF WYOMING**  
**EMERGENCY FAMILY AND MEDICAL LEAVE**  
**EXPANSION ACT POLICY**  
(ADDENDUM TO FMLA POLICY)

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Section 1 – General

The Families First Coronavirus Response Act of 2020 (FFCRA) includes Division C “Emergency Family and Medical Leave Expansion Act” (FMLEA), which amends the Family and Medical Leave Act of 1993.

In all respects, leaves of absence under this Policy shall be provided and administered in a manner consistent with the Family and Medical Leave Act (FMLA) of 1993, as amended, and the FMLEA, and its published regulations.

The provisions of this policy are in effect April 1, 2020, through December 31, 2020.

Section 2 – Eligibility

Employees are eligible for FMLEA if they have been employed for at least 30 calendar days by the employer with respect to whom leave is requested under section 102(a)(1)(F) of the FMLA.

Section 3 – Basic Leave Entitlement

Eligible employees may take FMLEA for a qualifying need related to a public health emergency. The term “qualifying leave related to a public health emergency,” with respect to leave means the employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee 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 total combined leave under the FMLA and the FMLEA shall at no time exceed 12 weeks in the 12 months preceding the leave.

Section 4 – Use of Leave

When unable to work (or telework) due to a need for leave to care for a son or daughter (under 18 years of age) due to school closure or child care provider closure, due to the public health emergency COVID-19, leave may be taken on an intermittent basis or by arranging a reduced work schedule. Employees must make reasonable efforts to schedule leave so as not to unduly disrupt the Employer’s operations. Leave may also be taken on an intermittent basis. An employee may be required to transfer temporarily to a position

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that can better accommodate an intermittent or reduced hours leave. All time taken will count toward the employee's FMLA leave entitlement.

Section 5 – Employee's Responsibility to Give Notice of the Need for Leave

In any case where the necessity for leave is foreseeable, an employee shall provide the employer with such notice of leave as is practicable.

Once an employee has requested FMLEA leave, the Employer will inform the employee whether he or she is eligible to take FMLEA leave and notify the employee of the employee's rights and responsibilities under FMLEA.

Section 6 – Certification

When the Employer requests it, an employee must provide sufficient documentation from a school or child care provider certifying that the facility is closed or unavailable due to the public health emergency.

Section 7 – Wages during FMLEA Leave

In general, the first 10 days for which an employee takes leave may consist of unpaid leave. Employees are permitted to use accrued leave time or emergency paid sick leave time to substitute for unpaid leave during the first 10 days. For the purposes of this policy, 10 days is equivalent to two weeks of scheduled work.

The employer shall provide paid leave for each day taken, following the initial 10 day period, at two-thirds of an employee's regular rate of pay for the number of hours the employee would otherwise be normally scheduled to work. Employees are permitted to use any accrued leave time or emergency paid sick leave time (in half hour increments) to supplement the additional one-third pay not to exceed 100% of their total base wage.

Employer paid leave for subsequent days shall be calculated as follows in accordance with the FMLEA:

- An amount that is not less than two-thirds of an employee's regular rate of pay (as determined under section 7(e) of the Fair Labor Standards Act and the number of hours the employee would otherwise be normally scheduled to work (in no event shall such paid leave exceed \$200 per day and \$10,000 in the aggregate).
- In the case of an employee whose schedule varies from week to week to such an extent that the City is unable to determine with certainty the number of hours the employee would have worked if such employee had not take leave under

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section 102(a)(1)(F), the Employer shall use the following in place of such number:

- A number equal to the average number of hours that the employee was scheduled per day over the 6-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, 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.
- In order to use paid leave during FMLEA leave, the employee must comply with the Employer's policies concerning paid leave. All time off, regardless of whether or not paid leave is used, will be charged against the employee's FMLA and FMLEA entitlement.
  - Emergency paid sick leave is paid at two-thirds of regular rate of pay for care for a child due to school or child care closure. Employees may supplement accrued leave time (in half-hour increments) not to exceed 100% of their regular base wage.

Section 8 – Benefits during FMLEA Leave

The Employer will maintain the employee's health coverage under any group health plan for covered FMLEA leave as long as the employee maintains his or her contributions during the leave. If the employee fails to make such contribution, the Employer may elect to either cancel health plan coverage (after 30 days) or to pay for such coverage and to obtain reimbursement by payroll deduction when the employee returns to work.

Employment contracts will govern accrual of benefits while on leave. Employees shall retain and accumulate their seniority during the period of leave.

Section 9 – Exclusions

An Employer of emergency responders may elect to exclude such employees from the provisions of the FMLEA. The City has opted to not exclude emergency responders; however, should there be a need, the Director of Police and Fire Services may call such employees back to work.

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Section 10 – Definitions

- Public Health Emergency - The term “public health emergency” means an emergency with respect to COVID-19 as declared by a Federal, State, or local authority.
- Child Care Provider – The term “child care provider” means a provider who receives compensation for providing child care services on a regular basis, including an “eligible child care provider” (as defined in section 658P of the child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858n))
- School – The term “school” means an elementary school or secondary school as such terms are defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

Section 11 – Rights

Any employee who believes that his or her rights have been violated is to report this immediately to their supervisor and the Human Resources Department. Any complaint will be investigated thoroughly and promptly. No employee will be retaliated against for making a good faith complaint.

03.26.20