

# **COVID-19 Emergency Leave Policy**

In response to changes in federal law (the Families First Coronavirus Response Act) and Oregon law (the Oregon Family Leave Act, per administrative regulation), this temporary administrative policy updates and replaces the COVID-19 Emergency Leave Policy dated March 13, 2020. This policy is effective April 1, 2020, and ends on December 31, 2020, unless specified below or unless the City of Sandy announces a continuation of this policy in writing.

This policy does not replace City of Sandy's existing policies on FMLA, OFLA, or sick leave, and should be read in conjunction with those policies.

## **Paid Sick Leave for COVID-19 Issues**

If an employee is unable to work or telework due to the six qualifying reasons related to the COVID-19 pandemic as described below, they will be eligible to take paid leave. All employees are eligible for this type of leave with two exceptions that are identified below. This leave is in addition to paid leave employees have accrued under City of Sandy's Sick Leave Policy; employees' accrued sick leave banks will not be withdrawn for leave taken under this policy.

### **Exceptions**

COVID-19 Paid Sick Leave is not available to health care providers or emergency responders.

### **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".
- (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) *Childcare* — to care for an employee's son or daughter if the son or daughter's school or childcare provider has been closed or is unavailable due to COVID-19-related issues.
- (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 will receive 80 hours 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 entitled 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 terminated.

Although COVID-19 Paid Sick Leave is available to employees immediately, employees must follow City of Sandy's call in requirement for regular sick leave. This includes notifying your immediate supervisor or department director immediately if you are unable to report to work.

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 City of Sandy 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 from the employee's health care provider 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 childcare provider about its/his/her unavailability to provide childcare 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.

#### **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 (over a two-week period).

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. Note, however, that additional paid leave may be available to employees who take School Closure Leave, discussed below.

Employees who receive COVID-19 Paid Sick Leave may supplement this pay with accrued sick leave or vacation time to meet their full salary expectations, but they will not be paid from both COVID-19 Paid Sick Leave and vacation/sick leave for the same hours.

## Family Medical Leave Act and Oregon Family Leave Act Policy for School Closures

Employees may be eligible to receive time off under FMLA and/or OFLA when the employee is unable to work (or telework) due to 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. If not specifically addressed in this policy, all other provisions in City of Sandy’s Family Leave Policy apply.

### Exceptions

School Closure Leave under FMLA is not available to health care providers or emergency responders. School Closure Leave may be available to health care providers and emergency responders under OFLA, however, if the Eligibility Requirements are met (discussed below).

### 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 childcare providers, and means a provider who receives compensation for providing childcare 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

*FMLA*: Employees who have worked for City of Sandy 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

*FMLA*: 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. City of Sandy 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 (or OFLA) leave in the City of Sandy's one-year calculation period 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**

*FMLA:* Where the necessity for School Closure 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 City of Sandy 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/his/her unavailability to provide childcare due to a public health emergency is required.

### **Benefits During Leave**

*FMLA:* The first ten days of leave are unpaid; employees may, however, use COVID-19 Paid Sick Leave or any other accrued paid leave during this period.

After the first ten days of School Closure Leave, and for each day thereafter, City of Sandy will provide paid leave calculated at two-thirds of an employee's regular rate of pay and the number of hours the employee would otherwise be normally be scheduled to work. Paid leave will not exceed \$200 per day, or \$10,000 in the aggregate (covering a 10-week period).

Employees who receive School Closure Leave may supplement their pay with accrued COVID-19 Paid Sick Leave, or sick leave or vacation time under City of Sandy'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.

*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, City of Sandy 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 his/her 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 City of Sandy benefit plans.

## **Job Protection**

*FMLA 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**

City of Sandy will issue discipline, up to and including termination, to anyone who retaliates against an employee who asks about, requests or uses School Closure Leave or COVID-19 Paid Sick Leave.

## **Time Entry, Payroll, and Telecommuting**

Employees are required to track their time away from the office for absences related to COVID-19. This will provide Finance Department staff with the documentation we need to seek reimbursement from federal or Oregon agencies related to the pandemic. The following information is intended to provide employees with the necessary information to accurately record their time.

- (1) Employees who are absent for any of the six qualifying reasons listed on Page 1 and cannot telecommute may use payroll code "Other" and enter a comment stating "COVID-19 Absence" to account for the absence.
  - a. Comment "COVID-19 Absence" will pay an employee's regular rate of pay by utilizing their COVID-19 Paid Sick Leave, without utilizing the employee's personal leave accruals.
  - b. This comment does not identify whether or not an employee is ill; but instead is used for the sole purpose of tracking paid leave and expenses associated with the City's response to COVID-19.
  - c. If employees utilize the comment "COVID-19 Absence" they must inform their direct supervisor in writing before submitting a timecard with this reporting category.
  - d. The direct supervisor will then forward the information to Human Resources via email: [hr@ci.sandy.or.us](mailto:hr@ci.sandy.or.us).
- (2) Employees who do not fall into one of the six categories listed in the qualifying reasons on Page 1 must utilize their accruals per the City's existing policies or procedures if they wish to be absent from work.
- (3) Telecommuting Option: If an employee meets one of the six qualifying reasons on Page 1 but is not ill.
  - a. The employee shall first attempt to utilize telecommuting in order to serve the public in the best possible manner.
  - b. When an employee is in a position with telecommuting capabilities, they shall talk with their supervisor to gain approval and make appropriate arrangements for telecommuting.
  - c. When telecommuting, employees must be available via computer or phone and provide a contact phone number where they can be easily and readily reached during their regular workday while working remotely from the work site.
  - d. If an employee is not in a position with telecommuting capabilities and is unable to come to work for reasons mentioned in one of the six General Policy categories above, comment "COVID-19 Absence" should be utilized to account for time away from work.