




**CITY OF NEW ORLEANS
CHIEF ADMINISTRATIVE OFFICE**

CIRCULAR MEMORANDUM NO. 20-08

APRIL 14, 2020

TO: All Directors and Departmental HR Administrators
FROM: Gilbert Montaña, Chief Administrative Officer 
SUBJECT: Instruction on Processing and Coding all COVID-19 related leave in Compliance with the Families First COVID-19 Recovery Act (FFCRA) and Civil Service Rules

I. PURPOSE:

The purpose of this memorandum is to provide guidance on paid leave required by the federal government pursuant to the Families First Coronavirus Recovery Act (Pub. Law No: 116-127; "FFCRA"), including the circumstances for which paid leave is required and the rate of payment for each type of paid leave under the FFCRA. This memorandum also addresses ADP coding for all COVID-19 related paid leave required by the FFCRA and identifies supporting documentation required of employees electing paid leave under the FFCRA by completion of the attached leave forms. A separate form for requests of civil leave pursuant to Civil Service Rule VIII, Section 4.1(i) is also included.

Effective Date and Eligible Employees:

The FFCRA is effective from April 1, 2020 through December 31, 2020. Accordingly, all classified and unclassified employees that are unable to report to work, *and* are unable to telework, *shall* be placed on paid leave as required by the FFCRA.

Expanded family medical leave under the FFCRA is only available to employees who have been employed by the City for at least thirty (30) days prior to the effective date of the FFCRA. The CAO reserves the right to decline civil leave on a case by case basis depending on issues raised in the completed FFCRA Leave and/or Civil Leave Request forms.

II. BACKGROUND

On March 22, 2020, the State of Louisiana issued a “Stay at Home” Order, which went into effect on March 23, 2020 at 5 p.m. The order directed all businesses throughout the state to reduce operations while continuing to provide critical services to the public, to minimize public contact and to practice social distancing.

Based on the State’s Directive, CAO Circular 20-07 was issued, which instructed all Department Directors to take action to ensure that as of March 23, 2020: 1) only critical employees would report to work in-person; 2) employees who are remote eligible begin working remotely; and 3) employees who are non-critical and non-remote eligible are placed on civil leave until further notice. CAO Circular 20-08 is issued to give all Directors and Departmental HR Administrators formal notice that those portions of the March 17, 2020, CAO Memorandum to the Personnel Director and CAO Circular 20-07 relative to authorizing civil leave pursuant to CS Rule VIII, Section 4.1(h) are hereby withdrawn.

III. GUIDANCE ON COVID-19 RELATED PAID LEAVE REQUIRED BY FFCRA:

The United States Department of Labor (“DOL”) has issued posters with essential information explaining how the FFCRA affects certain employers and employees. These posters: (1) Employees Rights; and (2) Employer Requirements, should be posted in each department’s facilities and provided electronically to all employees within each department. The City is a covered employer under two divisions of this new federal law; Division C – Emergency Family Medical Leave Expansion Act; and Division D – Emergency Paid Sick Leave Act.

All COVID-19 related paid leave required by the FFCRA is separate from leave authorized by the City of New Orleans’ Civil Service Rules. Accordingly, payment of FFCRA leave does not use or deplete a City employee’s existing accrued sick or annual leave accounts. Employees may ask for the new expanded FMLA leave and/or emergency paid sick leave to be applied going forward. All employee requests for paid leave required by the FFCRA, beginning on April 5, 2020 and continuing through December 31, 2020, shall be made by completing the attached FFCRA Paid Leave Request Form and submitting the completed, signed form to their departmental HR Administrator. (The April 5, 2020 date reflects the first day of the first pay period following the FFCRA effective date).

Qualifying Reasons for COVID-19 Related Paid Leave under the FFCRA:

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, *including* being unable to telework, because the employee:

1. Is subject to a federal, state or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine related to COVID-19;
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Is caring for an individual subject to an order described in (1) or (2);

5. Is caring for his or her child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 related reasons; and/or
Is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

Rate of Pay for COVID-19 Related Leave under the FFCRA:

Rate of Pay Received for Reasons #1-3 above:

Full time employees receive up to two weeks (10 working days; or up to 80 hours) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or federal minimum wage, paid at 100% up to \$511 daily and \$5,110 total per employee.

Part time employees receive a two week equivalent, *i.e.* paid leave for the number of hours they would normally work in two weeks, paid at 100% of their regular rate of pay, up to \$511 daily and \$5,110 total per employee.

Rate of Pay Received for Reasons #4 and #6 above:

Full time employees receive up to two weeks (10 working days; or up to 80 hours) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or federal minimum wage, paid at 2/3^{rds} of their regular rate of pay; up to \$200 daily and \$2,000 total per employee.

Part time employees receive a two-week equivalent, *i.e.* paid leave for the number of hours they would normally work in two weeks, at 2/3^{rds} of their regular rate of pay, up to \$200 daily and \$2,000 total per employee.

Rate of Pay Received for Reasons #5 above:

Full time employees receive up to 12 weeks of paid sick leave and expanded family medical leave paid at 2/3^{rds} of their normal rate of pay, up to \$200 daily and \$12,000 total per employee.

Part-time employees are eligible for leave for the number of hour that the employee is normally scheduled to work over that same 12 week period. They are paid at 2/3^{rds} of their normal rate of pay, up to \$200 daily and \$12,000 total per employee.

IV. INSTRUCTIONS TO APPOINTING AUTHORITIES

Application for FFCRA Leave, Civil Leave and Accrued Leave:

Beginning April 1, 2020, if an employee requests leave for reasons related to COVID-19 or has been instructed not to report to work pursuant to CAO Circular 20-07, all appointing authorities must use the following protocol to determine what leave is used. The following list establishes the order in which leave shall be used:

- FFCRA emergency paid sick leave that covers 100% of the employee's regular rate of pay;
- FFCRA emergency paid sick leave that covers two-thirds of the employee's regular rate of pay;
- Expanded family medical leave under the FFCRA;
- Civil leave pursuant to Civil Service Rule VIII, Section 4.1(i);
- Accrued sick or annual leave if requested by the employee.

All leaves required by the above list shall be applied until it is no longer available, or until the leave is no longer needed or requested. If a type of FFCRA leave that does not cover the employee's full rate of pay is used, the employee may choose to supplement it with another available type of leave (civil leave under CS Rule VIII, Section 4.1(i) or accrued sick or annual leave).

Appointing Authorities must follow these instructions until the end date of the FFCRA (December 31, 2020).

Appointing Authorities' Responsibility with Respect to Non-Remote Eligible Employees:

Appointing Authorities are responsible for ensuring that every employee they have designated as non-critical and non-remote eligible is placed on the appropriate type of leave and that all required documentation for the employee is complete in accordance with the above instructions and the attached leave forms. Accordingly, each Appointing Authority, or their designee, is responsible for contacting employees who were placed on civil leave prior to April 1, 2020, to discuss changes in their leave status and to obtain any needed information from the employee. This responsibility to ensure application of the appropriate type of leave for each employee and timely gathering of the required supporting documentation and completion of the attached leave forms continues for the duration of the effective period of the FFCRA, or until further notice from the CAO.

Required Notice from Employee to Employer under the FFCRA:

Employees are required to provide their appointing authority with the documentation listed below, prior to requesting paid COVID-19 related sick leave or expanded family and medical leave under this federal law (FFCRA). Required documentation includes:

- Employee's name;
- Date(s) for which leave is requested;
- Qualifying reasons for the leave (See DOL Employee Rights Poster);
- Written statement that employee is unable to work (or telework) because of the stated qualified reasons.

To take paid COVID-19 related leave for qualifying reasons related to quarantine instructions, the employee must provide their appointing authority with the name of the governmental entity that issued the Quarantine or Isolation order.

To take paid COVID-19 related leave pursuant to the expanded family and medical leave act, to care for a child whose school is closed or daycare provider is unavailable due to COVID-19, the employee must provide the following information to their appointing authority:

- The name of the child(ren) being cared for;
- The name of the school, place of care or name of childcare provider that has closed or become unavailable due to COVID-19;
- A representation by the employee that there is no other suitable person to care for their child(ren).

All required information identified in this section *must* be included on the FFCRA Paid Leave Request Form attached to this CAO Circular.

Employers Right to Request Qualifying Documentation:

The City or the employee's appointing authority may also request the employee to provide additional documentation as may be needed for the City to support a request for tax credits pursuant to the FFCRA. The City is not required to provide the requested FFCRA leave if materials sufficient to support the applicable tax credit have not been provided by the employee.

Employer Must Maintain Records Related to COVID-19 Paid Leave per the FFCRA:

The City as the employer, through its designated representative, including but not limited to appointing authorities for each City department, must maintain records received from its employees or otherwise related to payment of leave under the FFCRA for the time period designated in the legislation. Employees must complete the attached leave request forms for using FFCRA leave or civil leave pursuant to CS Rule VIII, Section 4.1(i) and provide those forms to their Director, or HR Administrator. Department Administrators will forward copies of all employee leave request forms to the Personnel and Training Division of the Chief Administrative Office via email to chamilton@nola.gov.

Use of City Employees Accrued Sick and Annual Leave:

Nothing in the FFCRA or this memorandum, precludes a City employee from using their accrued sick or annual leave, as long as the use of such leave is requested and approved by their appointing authority prior to its intended use. Requests for sick or annual leave that are *not* COVID-19 related pursuant to the FFCRA, will be charged against the employee's accrued sick or annual leave.

Coding Requirements in ADP for COVID-19 Related Leave Paid under the FFCRA:

All COVID-19 related paid leave taken as authorized by the FFCRA, will be coded in ADP to distinguish the leave from normal paid sick leave, and/or unpaid family medical leave. Appropriate coding of FFCRA leave is needed to avoid improper deductions from the employee's accrued sick leave account, and to ensure that the leave is appropriately documented for tax credit purposes.

All types of FFCRA leave should be coded in ADP using the codes designated by ADP. The three appropriate codes are as follows:

- Families First Employee Pay (FFE)(FF-PSL-EE) – Emergency paid sick leave, reasons #1-3
- Families First Family Care Pay (FFC)(FF-PSL-FAM) - Emergency paid sick leave, reasons #4-6
- Families First FMLA Expansion (FFX)(FF-FMLA) - Expanded family medical leave.

In those circumstances in which FFCRA leave pays the employee less than their normal rate of pay and the employee elects to supplement the FFCRA leave with another form of available leave, ADP coding should reflect the appropriate proportion of time for each type of leave. For example, in the case of an employee on expanded family medical leave (unaffected by the daily or total cap), and supplemented by annual leave, the ADP coding should reflect two-thirds of their time for each day as expanded family medical leave and one-third of their time as annual leave.

V. INQUIRIES:

Should you have any questions, please contact the Personnel and Training Division of the Chief Administrative Office at (504) 658-8607, or via email to chamilton@nola.gov.

**FAMILIES FIRST CORONAVIRUS RECOVERY ACT("FFCRA")
PAID LEAVE REQUEST FORM**

This form must be used by all City personnel requesting to use paid leave required by the FFCRA anytime between April 1, 2020 through December 31, 2020. Additional documentation required by CAO Circular 20-08 will be attached to this form when submitted to your department.

SECTION 1: For Completion by Appointing Authority or Designated Representative:

Employee Name: _____ (printed)

Employee's Assigned Department: _____

Employee's job title _____

Employee's Classification code: _____

Start date of employment with Department: _____

Status of Employee as of March 1, 2020:

_____ Fulltime employee: _____ #hrs worked per day; _____ # hrs worked per week

_____ Part time employee: _____ #hrs normally worked during two-week period

Normal two-week work schedule: _____

Employee's job duties: _____

Name of Appointing Authority: _____ (printed)

By the signature & date below, Appointing Authority or Designee confirms authorization of leave.

Signature of Appointing Authority

Date

Name of Designee for Appointing Authority

Date

Signature of Designee

SECTION 2: For Completion by EMPLOYEE

Employee name: (print) _____ Signature: _____

Type of Leave Requested and dates for requested leave:

_____ Emergency Paid Sick Leave

[Up to 80 hrs, or normal number of hours worked during two week period for fulltime at regular rate of pay; or normal number of hours worked during two week period by part time employees. For example: If you are a 7hr/day employee working 70hrs/pay period you will receive 70 hrs of ER Paid Sick Leave].

Dates: _____

_____ Expanded Family Medical Leave [2/3^{rds} of regular pay up to \$200/day or \$2000/10 days]

Dates: _____

Identify *all* Qualifying Reasons for Requested Leave that apply: [See DOL poster]

_____ I am subject to a federal, state or local quarantine/isolation order related to COVID-19;

Complete Section #3 if you checked the above box;

_____ I have been advised by a healthcare provider to self-quarantine related to COVID-19;

Complete Section #4 if you checked the above box;

_____ I am experiencing COVID-19 symptoms and I am seeking a medical diagnosis;

Complete Section #5 if you checked the above box;

_____ I am caring for an individual subject to an order described in (1) & (2) above;

Complete Section #6 if you checked the above box;

_____ I am caring for a child whose school or place of care is closed due to COVID-19;

Complete Section #7 if you checked the above box;

_____ I am experiencing other similar conditions specified by the U.S. Dept of Health.

Complete Section # 8 if you checked the above box;

SECTION 3: Please fill out the following information if you are subject to a federal, state or local quarantine/isolation order related to COVID-19:

Name of federal, state or local authority issuing quarantine/isolation order related to COVID-19

Dates of quarantine order: _____

SECTION 4: Please fill out the following information if you have been advised by a medical provider to self-quarantine related to COVID-19:

Medical Provider's name: _____

Medical Provider's address: _____

Type of Practice or Medical Specialty: _____

Telephone number: _____ Fax #: _____

Dates you were advised to self-quarantine: _____

SECTION 5: Please fill out the following information if you are experiencing COVID-19 symptoms and are seeking a medical diagnosis:

List COVID-19 symptoms you have: _____

Date symptoms started: _____

Name of drive thru test or health facility where you sought diagnosis:

Date you sought a medical diagnosis: _____

Diagnosis received and date received: _____

SECTION 6: Please fill out the following information if you are caring for an individual who is subject to a federal, state or local quarantine/isolation order related to COVID-19 or if you are caring for an individual who has been advised by a healthcare provider to self-quarantine.

Name of family member for who you will provide care:

First name

Middle

Last

Relationship of family member to you: _____

If family member is your child, provide date of birth: _____

Describe care you are providing to family member and estimate leave need to provide care:

If the above named individual was subject to a federal, state or local quarantine/isolation order related to COVID-19:

Name of federal, state or local entity issuing order: _____

Dates of quarantine for the above named individual: _____

If you are caring for an individual who has been advised by a healthcare provider to self-quarantine:

Medical provider's name: _____

Medical provider's business address: _____

Type of Practice or Medical specialty: _____

Telephone: _____ Fax: _____

Dates above named individual was advised to self-quarantine: _____

SECTION 7: Please fill out the following information if you are caring for a child whose school or place of care is closed due to COVID-19.

I am requesting this expanded FMLA leave due to my inability to work (or telework) because I am needed to care for my child due to the following: (mark all that apply)

_____ The closure of my child's school or place of care due to COVID-19 concerns;

_____ The unavailability of my child's regular care provider due to COVID-19 concerns.

_____ I attest that no other suitable person is available to care for my child during period of leave

Time off work is expected to be (select most appropriate box):

___ For a continuous block of time;

___ For a reduced work schedule (change needed is fewer hours/day or fewer days/week)

If a reduced schedule is needed, indicate the days and hours you are available for work:

Monday Tuesday Wednesday Thursday Friday Saturday Sunday

EMPLOYEE STATEMENT SUPPORTING LEAVE REQUEST:

I, _____ (print name), provide the following information in support of my request for expanded Family and Medical leave (complete all that apply):

Name of school or place of care closed due to COVID-19 concerns:

Name of child's caregiver who is unavailable due to COVID-19 concerns:

Names and ages of child or children I am needed to care for;

Name: _____ Age (DOB): _____

Name: _____ Age (DOB): _____

Name: _____ Age (DOB): _____

Name: _____ Age (DOB): _____

Identify any special circumstances that require you to take leave to care for a child ages 15-17:

SECTION 8: Please fill out the following information if you are experiencing other similar conditions specified by the United States Department of Health:

Describe the conditions that you are experiencing which are specified by the US Dept. of Health:

SECTION 9: Employee Signature

I attest by my signature below that the above information provided on this FFCRA Leave Request form is accurate and complete. I understand that falsification of any information given may result in denial of requested leave and may lead to disciplinary action.

Employee Signature: _____ Date: _____

PAID CIVIL LEAVE REQUEST FORM

SECTION 1:

This section is to be completed by the Appointing Authority for each employee granted civil leave anytime between March 23, 2020 and April 4, 2020, based on CAO Circular 20-07 that authorized civil leave for all non-critical and non-remote eligible employees.

Employee Name: _____ (printed)

Employee's Assigned Department: _____

Employee's job title/class code: _____

Start date of employment with Department: _____

Status of Employee as of March 1, 2020:

_____ Fulltime employee: _____ #hrs worked per day; _____ # hrs worked per week

_____ Part time employee: _____ #hrs normally worked during two-week period

Normal two-week work schedule: _____

Employee's job duties: _____

Explain why employee is non-remote eligible: _____

List all dates for which employee was granted civil leave under Civil Service Rule VIII, Section 4.1(h):

Name of Appointing Authority: _____ (printed)

By the signature & date below, Appointing Authority or Designee confirms authorization of leave.

Signature of Appointing Authority

Date

SECTION 2: This section must be completed by employee requesting civil leave pursuant to Civil Service Rule VIII, Section 4.1(i) for which each employee may receive 20 working days of civil leave anytime within 12 months of a stated disaster or emergency declared by the Mayor of New Orleans or the Governor of the State of Louisiana.

Employee Name: _____ (printed)

Employee Position & Classification Code: _____

Assigned City Department: _____

Name of Appointing Authority: _____ (printed)

REASON FOR REQUEST OF CIVIL LEAVE:

Based on the Governor's Statewide "Stay at Home" Order, issued on March 23, 2020, employees may take up to twenty (20) working days of paid leave within twelve (12) months of such declaration, pursuant to Civil Service Rule VIII, Section 4.1(i). To take this paid civil leave, employees must complete this request form and submit it to their Director or HR Administrator.

Check all of the following statements that apply to you:

_____ I am requesting paid civil leave based on the Governor's Statewide "Stay at Home" Order;

_____ I am not able to work remotely;

Explain why you cannot work remotely: _____

DATES OF LEAVE REQUESTED: List all dates for which civil leave is requested.

Employee Endorsement:

I, _____ (printed name) certify the truth of all information provided on this form, and confirm that I am not eligible to work remotely by my appointing authority at the time of this request.

_____ Employee Signature _____ Date