



CITY OF CLEVELAND
Mayor Frank G. Jackson

Wednesday, April 1, 2020

RE: Families First Coronavirus Response Act

Dear City of Cleveland Employee,

The City of Cleveland along with the local, state and national health community continues to monitor closely the emergence of the Coronavirus (COVID-19). At this time, no one knows how severe this outbreak will be.

The City of Cleveland is committed to the safety of our employees, our community and the continuation of essential operations during emergencies. The City of Cleveland's Continuity of Operations Plan has been developed to assist the City in managing its operations under Mayor Frank G. Jackson's Proclamation of Civil Emergency for the City of Cleveland.

It is the intent of the City of Cleveland to comply with applicable governmental regulations which have the effect of law.

Effective on March 18, 2020 the Families First Coronavirus Response Act ("FFCRA"), was signed into law (H.R. 6201). Under FFCRA, special rules apply for Health Care Providers and Emergency Responders. **Pursuant to those rules the City of Cleveland is exempting ALL city-wide critical employees and emergency (first) responders from the provisions of FFCRA and any applicable COVID-19 work rule previously issued by the City of Cleveland granting administrative paid time off.**

A Critical Employee or Emergency (First) Responders are defined under the Homeland Security laws. The term "first responder" refers to those individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including but not limited to emergency response providers as defined in Section 2 of the Homeland Security Act of 2002 (6 U.S.C. § 101) as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as equipment operators) that provide immediate support services during prevention, response, and recovery operations.

Employees designated as critical or emergency (first) responders are required to report to work daily and are exempt from (1) Coronavirus (COVID-19) Work Rules (dated 3-18-2020); (2) this Policy; and (3) the Families First Coronavirus Response Act.

The Policy accompanying this letter, "*Human Resources Work Rule (PART 2) -- Families First Coronavirus Response Act ("FFCRA")*" provides additional details.

City of Cleveland – Human Resources Work Rule (PART 2)
Families First Coronavirus Response Act (“FFCRA”)
Critical Employee and Emergency (First) Responders

Introduction:

The City of Cleveland is committed to the safety of our employees, our community and the continuation of essential operations during emergencies. The City of Cleveland’s Continuity of Operations Plan has been developed to assist the City in managing its operations under Mayor Frank G. Jackson’s Proclamation of Civil Emergency, for the City of Cleveland.

Compliance:

It is the intent of the City of Cleveland to comply with applicable governmental regulations which have the effect of law.

Purpose:

Effective on March 18, 2020, FFCRA was signed into law (H.R. 6201). Pursuant to those provisions, special rules apply for Health Care Providers and Emergency Responders. As such the City of Cleveland is exempting ALL city-wide emergency (first) responders from the provisions of FFCRA.

Employee Designations:

TIER1: Critical Employee and Emergency (First) Responders are defined under Homeland Security laws. The term “first responder” refers to those individuals who in the early stages of an incident are responsible for the protection and preservation of life, property, evidence, and the environment, including but not limited to emergency response providers as defined in Section 2 of the Homeland Security Act of 2002 (6 U.S.C. § 101) as well as emergency management, public health, clinical care, public works, and other skilled support personnel (such as equipment operators) that provide immediate support services during prevention, response, and recovery operations. **Employees designated as emergency (first) responders are required to report to work daily and are exempt from (1) Coronavirus (COVID-19) Work Rules (dated 3-18-2020); (2) this Policy; and (3) the Families First Coronavirus Response Act.**

TIER2: Essential Employees: are defined as employees who are designated as required to work when an office closing is authorized, usually in operations that must provide services around the clock. The designation of essential can depend upon the employees’ duties, as well as the circumstances for the closing. **Employees designated as Essential employees are required to report daily and are eligible to receive paid time off in accordance with the Coronavirus (COVID-19) Work Rules (dated 3-18-2020).**

TIER3: Non-Essential Employees: are defined as employees who are not required to work when an office closing is authorized. Occasionally, nonessential employees may be required to work if skeleton crews must be maintained or if specific work must be performed to meet deadlines. **Employees designated as Non-Essential employees are required to work from home daily and are eligible to receive paid time off in accordance with the Coronavirus (COVID-19) Work Rules (dated 3-18-2020).**

Effective on March 18, 2020 the FFCRA was signed into law (H.R. 6201).

The recently passed Families First Coronavirus Response Act mandates the City of Cleveland:

- I. to post a notice summarizing the FFCRA requirements “in conspicuous places on the premises of the employer where notices to employees are customarily posted.”
- II. to offer paid leave under the Emergency Paid Sick Leave Act (EPSL), Division E of FFCRA.

- A. **Effective date:** 04/01/2020.
- B. **Entitlement:** Under FFCRA, an employer must provide EPSL to an employee experiencing one of the following that also unable to work from home:
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 due to concerns related to COVID-19;
 3. is experiencing symptoms of COVID-19 and seeking a medical diagnosis;
 4. is caring for an individual who is subject to Federal, State, or local quarantine or isolation order related to COVID-19; or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
 5. is caring for their minor child if the child's school or place of care has been closed, or if the child's care provider is unavailable due to COVID-19 precautions; or
 6. 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."
- C. **Duration:** A full-time employee is entitled to 80 hours of EPSL. A part-time employee is entitled to an amount of EPSL equal to the average number of hours the employee works over a two-week period. Employees taking leave for categories 1-3 above shall be paid their full salary (subject to a maximum of \$511/day and \$5110 total). Employees taking leave for categories 4-6 above shall be paid 2/3 their standard salary (subject to a maximum of \$200 per day and \$2000 total).
- D. **Employee eligibility:** Employees are entitled to EPSL regardless of how long the employee has been employed by the employer.
- E. **Employer coverage:** "Covered employer" for the purposes of determining eligibility for EPSL includes any private entity or individual that employs fewer than 500 employees; and any public agency or other entity that is not a private entity that employs one or more employees. *The City of Cleveland is not a covered employer under the Expanded Family and Medical Leave ("EFMLA") provisions contained in FFCRA as the City maintains more than 500 employees. However, standard FMLA leave remains available to qualified employees.*

Under the EPSL provisions of FFCRA in general, an employer shall provide to each employee employed by the employer paid sick time to the extent that the employee is unable to work (or telework), or is a health care provider or an emergency (first) responder. ***The EPSL states, "Except that an employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of this subsection."***

Each City of Cleveland Department's continuity of operations plan can provide guidance regarding the functions and classifications the department an agency has prioritized as critical. These priorities include individuals who positions or roles places them in the early stages of an incident and/or are responsible for the protection and preservation of life, property, evidence, and the environment. These position classifications are critical to the infrastructure of the City of Cleveland.

Examples of Emergency (First) Responders/Employees (this is not a complete or exclusive list):

1. **ALL Directors and Assistant Directors of Departments and ALL Commissioners of Divisions**
2. **Department of Aging** – any employee required per the contract with the Ohio Department of Aging, these

include but are not limited to the Aging and Disability Resource Center Manager, Home Maintenance Aides, and the Chore Supervisor.

3. Department of Port Control: Chiefs of Airport Operations (Administration Bureau Managers), Airport Administrative Managers, employees who work in: Airport Field Operations, Airport Maintenance, Airport Operations, Airport Safety (i.e. Airport Safety Workers & Supervisors), Airport Security, the Building Stationary Engineer, Chief Engineering & Construction Inspector, Chief of Safety Signal Systems, Commissioner of Airports, Custodial Workers and Supervisors, Deputy Commissioners, Director of Port Control, Electrical Worker and Foreman, Heavy Duty Mechanic and Unit Leader, Vehicle Maintenance Laborers, Terminal Operations employees, System Analysts, Warehouse Inventory employees and Window Washers.

4. Department of Public Health – COVID-19 Response Team

AIR QUALITY: Employees in Air Pollution and Monitoring, Air Pollution Enforcement, the Commissioner of Air Quality, Permit Review Manager, Air Pollution Outreach, Health Outreach, Indoor Air Quality Specialist.

ENVIRONMENT: COVID-19 Assistant Administrator, COVID-19 Caseworker II, Deputy Commissioner of Environment, District Supervisor Environmental Health, Environment Compliance Specialist II, Environment Compliance Specialist III, Environmental Program Manager, COVID-19 Project Coordinator, Public Health Sanitarian I, Public Health Sanitarian II, Public Health Sanitarian III, Public Health Sanitarian IV, Data Conversion Operator, Caseworker Supervisor, Receptionist

HEALTH: COVID-19 Administrative Manager, COVID-19 Assistant Administrator, Budget & Management Analyst, Commissioner of Health, Community Health Aide, Director of Public Health Nursing, Epidemiologist, Chief Epidemiologist, Grant Administrator, Health Center Director, Health Services Administrator, Jr Clerk, Manager Of Events, Preventive Health Counselor, Principal Clerk, Private Secretary, Project Coordinator, Public Health Nurse III, Senior Clerk, Supervisor Of Vital Statistics, Health Promotion Coordinator, Disease Surveillance Specialist

ADMINISTRATION: Chief of Computer Operations, Preventive Health Counselor, Senior Programmer Analyst

5. Department of Public Safety:

PUBLIC SAFETY ADMINISTRATION: City Hall Security Operations

ANIMAL CARE & CONTROL: Animal Care and Control Manager, Animal Control Officers, Animal Care Workers, Animal Health Technicians

EMS: Deputy Commissioner, Commander, EMD Sergeant, EMD Paramedic Sergeant, EMT Paramedic Sergeant, EMT Supervisor Captain, EMT Paramedics, EMD Crew Chiefs, Emergency Medical Dispatchers (EMD).

POLICE: Police Radio Dispatcher, Safety Telephone Operator, Traffic Control Full and Part Time, Traffic Control Airport, Chief Radio Dispatcher and Sworn Officers and Supervisors.

FIRE: Assistant Chief of Fire, Battalion Chief of Fire, Captain of Fire, Chief of Fire, Lieutenant of Fire, Apprentice-Medic I Fire, Apprentice-Medic II Fire, Apprentice-Medic III Fire, Firefighter, and Fire Trainee.

6. Department of Public Utilities:

Water & Water Pollution Control: Assistant Superintendent of Distribution, Superintendent of Sewer Maintenance, Assistant Plant Manager, Bricklayer, Cement Finisher, Chemist, Chief Meter Reader, Chief Radio Dispatcher, Electrician, Engineer of Hydraulic Survey, Heavy Duty Mechanic, Machinist,

Machinist Helper, Meter Reader Supervisor, Meter Technician, Meter Technician Leader, Meter Technician Supervisor, Municipal Construction Equipment Operator, Plant Manager, Plumber, Radio Dispatcher, Security Officer, Senior Chemist, Sewer Maintenance Unit Leader, Sewer Construction & Maintenance Operations Supervisor, (SCMOS), Sewer Maintenance Unit Leader Operator, Sewer Service Worker, Stationary Boiler Room Operator, Truck Driver (all classifications), Water Hydraulic Supervisor, Water Hydraulic Unit Leader, Water Pipe Repair Supervisor, Water Pipe Repair Unit Leader, Water Pipe Repair Worker, Water Plant Operator

Cleveland Public Power: Cable Splicer Apprentice (ALL), Cable Splicer Dispatcher Electric System Operator, Electrician, Electric Meter Industrial Installer, Electric Meter Industrial Installer Leader, Electric Meter Instruction Specialist & General Tester, Electric Meter Service Installer I, Electric Meter Service Installer II, Electric Transmission & Distribution Inspector, Foreman, Junior Electric Switchboard Operator, Municipal Service Laborer, Leader Lineman, Line Clearance Man, Line Helper/Driver 2nd Year, Line Helper/Driver Start, Line Helper/Driver Trouble, Line Switchman, Lineman Apprentice (ALL), Lineman Leader, Low Tension Leader Lineman, Low Tension Line Helper Driver 2nd, Low Tension Line Helper Driver Start, Low Tension Line Helper Driver Trouble, Low Tension Lineman, Low Tension Lineman Apprentice (ALL), Low Tension Trouble Lineman, Meterman Apprentice (ALL), Meter Dispatcher, Power Meter Dispatcher, Senior Cable Splicer, Senior Electric Switchboard Operator, Senior Lineman, Splicer Helper 2nd Year, Splicer Helper Start, Switcher, Tele-Communications Technician, Traffic Signal Control Technician I, Traffic Signal Control Technician II, Transformer/Gas Turbine Repairman, Transformer/Gas Turbine Repairman Apprentice (ALL), Trouble Lineman

7. Department of Public Works:

Public Auditorium: Deputy Commissioners, Building Stationary Engineer, Electrical Worker, Plasterer, and Plumber.

West Side Market: Manager of Markets, Supervisor of Markets, Building Stationary Engineers and Municipal Service Laborers.

Division of Parking: Manager of Parking.

Division of Property Management: Manager of General Maintenance, Assistant Custodian, Building Stationary Engineer, Custodial Worker and Supervisor, Custodian, Guard, Mechanical Handyman, Municipal Service Laborer, Chief Building Stationary Engineer, Electrical Worker, and Plumber and Foreman,

Division of Park Maintenance: Manager of Urban Forestry, Manager of Cemetery, Automobile Repair Worker, Cemetery Maintenance Worker I and II, Cemetery Foreman, and Cemetery Supervisor.

Division of Waste Collection & Disposal: ALL Employees: Assistant Superintendent of Waste Collection, General Superintendent of Waste Collection, Construction Equipment Operator, Street Equipment Maintenance Specialist, Labor Foreman, Municipal Service Laborer, Transfer Station Attendant, Waste Collection Driver, Waste Collection Foreman (ALL), Waste Collector, and Radio Operator.

Division of Traffic Engineering: Low Tension Lineman, Line Helper Driver, Lineman Low Tension Foreman, and Traffic Sign & Marking Operator and Technician.

Division of Motor Vehicle Maintenance: Assistant Commissioner of Motor Vehicle Maintenance, Superintendent of Motorized Equipment, Superintendent of Vehicle Admin Services, Fleet Management Data Manager, Automobile Repair Worker, Automobile Repairman Unit Leader, Heavy Duty Auto Body Repair Worker, Heavy Duty Mechanic and Unit Leader, Welder, Tanker Truck Driver and Tire Repair Worker.

8. The Mayor's Office of Capital Projects - Engineering and Construction Inspectors, Construction Manager, Section Chief of Construction, Special Assistant to the Mayor (Engineering and Construction).

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) 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% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.*

▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

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

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| <ol style="list-style-type: none">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 self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
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▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



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