

Updated Leave Policy Applicable During the Outbreak of Coronavirus Disease 2019 (COVID-19), eff. June 3, 2020

I. Leave Policy

A. Excused Leave

1. General Provisions

- a. Excused leave at full or partial pay under this Policy is immediately available to an employee who is unable to work or telework without regard to length of service.
- b. Length of excused leave: Excused leave for an employee who tests positive for COVID-19 shall be available until the employee is cleared to return to work. Excused leave provided pursuant to the Emergency Paid Sick Leave Act (Division E of the FFCRA) effective April 1, 2020, is limited to two workweeks.
- c. Part-time employees may receive excused leave for the number of bi-weekly hours that the employee was expected to work. Where expected hours cannot be readily determined, part-time employees may receive excused leave for the average number of bi-weekly hours that the employee worked over the six months preceding the leave.
- d. Excused leave under this Policy is in addition to existing rules and entitlement regarding leave, e.g. annual leave and sick leave.
- e. An employee may waive excused leave at partial (two-thirds) pay authorized by this policy and use accrued annual leave or sick leave, if applicable, during the period of excused leave at partial pay.
- f. Agencies shall not require employees to charge absences to other accrued leave during the period of excused leave authorized by this policy.
- g. Leave that an employee has taken prior to April 1, 2020 shall not be counted toward the amount of excused leave authorized by this Policy.
- h. An eligible employee may utilize excused leave intermittently as agreed upon by the agency and the employee. This leave must be taken in full-day increments if the employee is not teleworking. Excused leave may be taken in partial-day increments if the employee is teleworking and by agreement between the employee and the agency.
- i. The length of absence that requires an employee to submit required documentation upon return to work is extended from absences of more than three consecutive days to absences of more than five consecutive days.

- j. The City's and all Agencies' absence control procedures are suspended until further notice.
 - k. After the first workday (or portion thereof) that an employee receives excused leave under this Policy, the agency may require the employee to follow reasonable notice procedures to continue receiving excused leave.
2. Excused Leave at Full Pay – An employee is eligible for excused leave at full pay as follows:
- a. An employee who has a documented positive COVID-19 test shall receive excused absence without charge to leave balances until the employee is cleared to return to work.
 - b. An employee is eligible for excused leave at full pay for up to two workweeks, with any additional leave charged to applicable leave balances as follows:
 - i. The employee is exhibiting symptoms of COVID-19:
 - a) If the employee has any documented symptom of COVID-19, the employee must not report to work other than telework for 10 days after the symptoms started² or for three days after the fever has stopped, whichever is longer.³
 - b) An employee must provide documentation that he or she has exhibited symptoms of COVID-19 to be eligible for excused leave, provided that an employee who teleworks must provide such documentation only if the absence extends for more than five consecutive days. Documentation obtained from Teledoc or other on-line doctor's services will be accepted.
 - c) Employees who exhaust sick leave may be advanced additional sick leave at the discretion of the Agency Head. Until further notice, the provision of advanced sick leave does not require the employee to be a permanent employee or to have more than 10 years of service.
 - ii. The employee is subject to a governmental quarantine or isolation order and is unable to telework while observing the governmental quarantine or isolation order.
 - c. An employee who has a documented positive COVID-19 test shall receive excused absence without charge to leave balances until the employee is cleared to return to work.

- d. An employee is eligible for excused leave at full pay for up to two workweeks, with any additional leave charged to applicable leave balances as follows:
 - i. The employee is exhibiting symptoms of COVID-19:
 - a) If the employee has any documented symptom of COVID-19, the employee must not report to work other than telework for 10 days after the symptoms started² or for three days after the fever has stopped, whichever is longer.³
 - b) An employee must provide documentation that he or she has exhibited symptoms of COVID-19 to be eligible for excused leave, provided that an employee who teleworks must provide such documentation only if the absence extends for more than five consecutive days. Documentation obtained from Teledoc or other on-line doctor's services will be accepted.
 - c) Employees who exhaust sick leave may be advanced additional sick leave at the discretion of the Agency Head. Until further notice, the provision of advanced sick leave does not require the employee to be a permanent employee or to have more than 10 years of service.
 - ii. The employee is subject to a governmental quarantine or isolation order and is unable to telework while observing the governmental quarantine or isolation order.
 - iii. The employee has been advised by a licensed health care provider to self-quarantine either because of exposure to COVID-19 or because of heightened risk associated with exposure to COVID-19. The employee must provide documentation from the licensed health care provider stating that the employee is unable to telework as a result of the need to self-quarantine.
3. Excused Leave at Partial Pay. Except as provided in subsection "d" below, employees are eligible for two workweeks of excused leave at partial pay (two-thirds of the employee's regular rate of pay, not to exceed \$200 per day or a total of \$2,000) as follows:

² Any employee who used leave directly after excused leave between DOHMH's Health Advisory #14 (<https://www1.nyc.gov/assets/doh/downloads/pdf/han/advisory/2020/covid-19-update-05142020.pdf>) dated May 14, 2020 and the date of this guidance may have up to three days credited at the agency's discretion.

³ See "What New Yorkers Need to Know Now About COVID-19," New York City Department of Health and Mental Hygiene (May 20, 2020) at <https://www1.nyc.gov/assets/doh/downloads/pdf/imm/coronavirus-factsheet.pdf>

- a. The employee is caring for an individual subject to a governmental quarantine or isolation order and the employee must demonstrate that the individual depends on the employee for care and that he or she is unable to telework while caring for an individual under the governmental quarantine or isolation order.
- b. The employee is caring for an individual who has been advised by a licensed health care provider to self-quarantine either because of exposure to COVID-19 or because of heightened risk associated with exposure to COVID-19. The employee must provide documentation of the licensed health care provider's advice and must demonstrate that the individual depends on the employee for care and that he or she is unable to telework while caring for an individual in self-quarantine.
- c. The employee is caring for a son or daughter under 18 years of age whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 precautions. As required by federal regulation, the employee must provide documentation containing the following information:
 - i. Employee's name;
 - ii. Date(s) for which leave is requested;
 - iii. Qualifying reason for the leave;
 - iv. Oral or written statement that the employee is unable to work because of the qualified reason for leave (in this case care for a child):
 - v. The name and age of the son or daughter being cared for;
 - vi. The name of the School, place of care or child care provider that has closed or become unavailable; and
 - vii. A representation that no other suitable person will be caring for the child during the period of leave.
- d. **Health Care Providers and Emergency Responders are not eligible for excused leave at partial pay.** Health Care Providers and Emergency Responders may be eligible to receive child care at a Regional Enrichment Center administered through the Department of Education.

B. Leave to Care for a Child Under the Emergency Family and Medical Leave Expansion Act

1. Leave to care for a child under the Emergency Family and Medical Leave Expansion Act (Division C of the FFCRA) is available only to employees who have been employed for thirty (30) days or longer.

2. Health Care Providers and Emergency Responders are not eligible for leave to care for a child under this section. Health Care Providers and Emergency Responders may be eligible to receive child care at a Regional Enrichment Center administered through the Department of Education.
3. Eligible employees may take up to 12 weeks of Family Medical Leave to care for a son or daughter whose school or place of care has been closed or whose child care provider is unavailable due to COVID-19 precautions and is unable to telework.
4. During the first ten work days of such leave, the employee may:
 - a. Receive excused leave at two-thirds of the regular rate of pay not to exceed \$200 per day or a total of \$2,000, in accordance with paragraph IV (A)(3)(c) above, or
 - b. Elect to utilize accrued annual leave or compensatory time.
5. After the first ten work days of leave to care for a child under this section, leave shall be paid at two-thirds of the regular rate of pay not to exceed \$200 per day or a total of \$10,000. The employee may not utilize accrued leave or compensatory time during this ten-week period.
6. An eligible employee may utilize leave to care for a child intermittently as agreed upon by the agency and the employee. This leave must be taken in full-day increments if the employee is not teleworking. Excused leave may be taken in partial-day increments if the employee is teleworking by agreement between the employee and the agency.
7. The maximum 12 weeks of leave under this section is reduced by the amount of the FMLA leave entitlement taken in that year. If an employee has exhausted his or her 12 weeks of leave, he or she may still take two weeks of partial pay leave for a COVID-19 qualifying reason as outlined in Section IV(A)(3).
8. As required by federal regulation, the employee must provide documentation containing the following information:
 - a. Employee's name;
 - b. Date(s) for which leave is requested;
 - c. Qualifying reason for the leave;
 - d. Oral or written statement that the Employee is unable to work because of the qualified reason for leave (in this case care for a child);
 - e. The name and age of son or daughter being cared for;

- f. The name of the School, place of care or child care provider that has closed or become unavailable; and
- g. A representation that no other suitable person will be caring for the child during the period of the leave.