



OLYMPIC VALLEY PUBLIC SERVICE DISTRICT



EXHIBIT F-1
7 Pages

FAMILIES FIRST CORONAVIRUS RESPONSE ACT EXTENSION

DATE: January 26, 2021

TO: District Board Members

FROM: Mike Geary, General Manager; Jessica Grunst, Account Clerk II/HR Specialist

SUBJECT: Extension of Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion Act (EFMLEA)

BACKGROUND: On March 18, 2020, in response to the COVID-19 pandemic, and to reduce the impact of the virus on American families, the U.S. Congress passed the Families First Coronavirus Response Act (FFCRA). The FFCRA was effective April 1, 2020 through December 31, 2020 and provided Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion Act (EFMLEA) for all District employees who qualify.

Effective April 1, 2020 the District adopted a Coronavirus Response Act Leave Policy, attached. The policy explains Federal leave provisions and how they interact with current leave policies.

On December 21, 2020, both the House and the Senate voted to pass a new \$900 billion stimulus bill. However, Congress declined to extend mandated FFCRA leave, which ended on December 31st. Acknowledging that the impacts of the COVID-19 pandemic have not yet abated, public sector employers are free to extend the leaves if they wish, or develop their own short term leave provisions for assistance to their employees in COVID-19 related circumstances.

DISCUSSION: The programs benefit District staff should they contract COVID-19, be required to quarantine due to COVID-19, or be required to care for a qualifying dependent due to COVID-19 related illness or school/daycare closure. The details of the benefits can be found in the attached Coronavirus Response Act Leave Policy.

The Board may consider extending these leave programs by rolling over employees' existing FFCRA/EPSTL balances for use retroactively from January 1, 2021 through June 30, 2021. It is a meaningful benefit to employees caring for themselves and / or their family and provides flexibility while children are

distance learning. The benefit allows the District to more conservatively protect employees and encourages employees to be honest and proactive in communicating about their health and any potential exposure.

Several neighboring special districts are also extending the benefit until June 30, 2021.

ALTERNATIVES: 1. Approve the extension of Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion Act (EFMLEA) related to COVID-19 (previously the Families First Coronavirus Response Act's EPSL and EFMLEA) through June 30, 2021.

2. Do not approve the extension of paid family and sick leave related to COVID-19.

FISCAL/RESOURCE IMPACTS: The FFCRA provided 80 hours of paid EPSL per employee and between April 1, 2020 and December 31, 2020, 354.75 hours were used by nine employees. The total cost to the District was \$9,396.84. One employee requested use of 27.25 hours of E-FMLA. The cost to the District was \$800. Note that this does not increase the operating expenses for the year because the wages were budgeted. However, of course, there was less work completed and the District may hold a higher liability for accrued regular sick leave balances.

The District is not currently eligible for any federal financial assistance related to the benefits provided for by the FFCRA. The District has participated in efforts to lobby federal lawmakers for the inclusion of Special Districts in tax relief or other financial assistance measures related to FFCRA, however, to-date, these efforts have been unsuccessful.

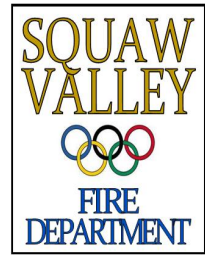
RECOMMENDATION: Approve the extension of Emergency Paid Sick Leave (EPSL) and Emergency Family and Medical Leave Expansion Act (EFMLEA) related to COVID-19 through June 30, 2021.

ATTACHMENTS: The District's Coronavirus Response Act Leave Policy (5 Pages)

DATE PREPARED: January 14, 2021



SQUAW VALLEY PUBLIC SERVICE DISTRICT



Coronavirus Response Act Leave Policy

On March 18, 2020, in response to the COVID-19 pandemic, and in an effort to reduce the impact of the virus on American families, Congress passed the Families First Coronavirus Response Act (FFCRA). The FFCRA is effective April 1, 2020 through December 31, 2020 and provides paid leave for all SVPSD employees who qualify. This policy explains these Federal leave provisions and how they interact with current leave policies.

Emergency Paid Sick Leave (EPSL):

From April 1, 2020 through December 31, 2020, eligible employees in the Administration and Operations Departments and the Fire Chief can take up to 80 hours of EPSL and full-time shift employees in the Fire Department can take up to 112 hours of EPSL as follows:

- A. Employees are entitled to EPSL at their regular rate of pay, subject to caps below, if they are unable to work or telecommute for the following reasons:
 - (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19. (Quarantine and isolation orders are defined by the CDC and do not include “shelter in place” orders.)
 - (2) The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
 - (3) The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

EPSL for reasons A(1)-(3) above is subject to the following earnings cap: \$511/day and \$5,110 total over the entire EPSL period.

- B. Employees are entitled to EPSL at two-thirds of the employee’s regular rate of pay if they are unable to work or telecommute because:
 - (1) The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or been advised by a health care provider to self-quarantine due to concerns related to COVID-19 order as described in Section A(1) or has been advised as described in Section A(2) above.
 - (2) The employee is caring for a child if the school or place of care of the child has been closed, or the child care provider of such child is unavailable, due to COVID-19 precautions. See definitions below for “child”, “school”, and “child care provider”.

- (3) The employee 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. (The statute does not provide any guidance on what this language means. It is believed Congress intended to insert a placeholder to expand eligibility later if an unexpected need arises, therefore eligibility under this item is subject to future update and clarification by Congress.)

EPSL for reasons B(1)-(3) above is subject to the following earnings cap: \$200/day and \$2,000 total over the entire EPSL period. Employees may, but are not required to, supplement this two-thirds pay with their available accrued leave in order to achieve 100% of their regular rate of pay.

C. Reasons A(1)-(3) and B(1)-(3) above provide for a:

- (1) total of 80 hours, not 80 each, for eligible employees in the Administration and Operations Departments and the Fire Chief.
- (2) total of 112 hours, not 112 each, for eligible full-time shift employees in the Fire Department.

D. Part-time employees are entitled to pay based on the number of hours they would otherwise have been scheduled to work over a two week period during the time they are taking leave. In the case of an employee whose schedule varies from week to week to such an extent that the District is unable to determine with certainty the number of hours the employee would have worked if the employee had not taken leave, the District will compute the number of hours paid using the following criteria:

- (1) 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 commences leave, including hours for which the employee took any type of paid leave.

E. Under the FFCRA, the District may deny EPSL to any employee the District determines to be essential to the provision of its essential services. The District does not intend to do so, but reserves the right, as a last resort, if staffing levels become critical.

F. EPSL is in addition to any other leave accrued and does not accrue beyond 80 hours for eligible employees in the Administration and Operations Departments and the Fire Chief and does not accrue beyond 112 hours, for eligible full-time shift employees in the Fire Department. Unused leave does not carryover for any employees and employees are not paid for unused EPSL.

G. EPSL is protected when used for the reasons specified above.

H. Employee may use EPSL before using any other available accrued leave for the qualifying reasons stated above.

I. Employees shall request leave as soon as practicable and shall certify the need for leave in writing at the time of the request.

J. An employee, or employee's family member, who is diagnosed with COVID-19 may be eligible

for leave under already existing Family Medical Leave Act and California Family Rights Act Leave. These leaves would run concurrently. They are not paid leave, although the employee could use their other accrued leave.

Definitions

Child is defined as a biological, adopted, foster child, stepchild, legal ward, or a child of a person standing in loco parentis, who is under 18 years of age. The definition also includes an adult son or daughter (i.e., one who is 18 years of age or older), who has a mental or physical disability, and is incapable of self-care because of that disability.

School is defined as an elementary or secondary school.

Child care provider is defined as a provider who receives compensation for providing childcare services on a regular basis, including:

- a center-based childcare provider
- a group home childcare provider
- a family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
- other licensed provider of childcare services for compensation
- childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent

Emergency Family and Medical Leave Expansion Act

From April 1, 2020 through December 31, 2020, all employees can take Emergency Family and Medical Leave Expansion Act leave (EFML) as follows:

- A. Employees are eligible for up to 12 weeks of job-protected EFML if the following requirements are met:
 - (1) The employee has worked for the District for at least 30 calendar days;
 - (2) The employee is unable to work (or telecommute) due to a need to care for the son or daughter (under 18 years of age) who's school or place of care has been closed, or who's child care provider is unavailable due to a COVID-19 emergency declared by either a Federal, State, or local authority;
 - (3) The employee provided reasonable notice of the need for the leave.
 - (4) An employee who has not exhausted Family Medical Leave Act during the prior 12 months is eligible to receive up to 12 weeks of protected EFML.
- B. The first 10 days of EFML may consist of unpaid leave unless the employee elects to utilize accrued leaves, including EPSL. For the remaining 10 weeks, an employee is entitled to paid leave at two-thirds of the employee's regular rate of pay. However, paid EFML is subject to a cap of \$200 per day and \$10,000 total. Employees may, but are not required to, supplement this pay with their available accrued leave to achieve 100% of their regular rate of pay.
- C. Part-time employees are entitled to pay based on the number of hours they would otherwise have been scheduled to work over a two week period during the time they are taking leave. In the case of an employee whose schedule varies from week to week to such an extent that the District is unable to determine with certainty the number of hours the employee would have worked if the employee had not taken leave, the District will use the following criteria:
 - (1) 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 commences leave, including hours for which the employee took any type of paid leave.
- D. Employees out on EFML are entitled to reinstatement to their prior position unless the position held by the employee does not exist due to economic conditions or other changes in operating conditions caused by a public health emergency during the period of leave.

If the District is unable to restore the employee to an equivalent position to the employee's prior position, the District will notify the employee if an equivalent position becomes available within 1-year of either, the date the public health emergency concludes or a date which is 12 weeks after the employee started their Emergency Family and Medical Leave, (which ever date is earlier). Notification shall be by regular mail to the employees address on file.
- E. Under the FFCRA, the District may deny EFML to any employee the District determines to be

essential to the provision of its essential services. The District does not intend to do so, but reserves the right, as a last resort, if staffing levels become critical.

- F. Employees shall request leave as soon as practicable and shall certify the need for leave in writing at the time of the request.
- G. Employee may use EFML before using any other available accrued leave for the qualifying reasons stated above.
- H. The provision of this section shall expire on December 31, 2020 or when EFML is no longer effective.

Certification Process for Leave under Emergency Paid Sick Leave or the Emergency Family and Medical Leave Expansion Act

1. Employees who request leave under the under the EPSL must provide documentation in their written request. This could be fulfilled by written documentation by a health care provider advising the employee to self-quarantine due to concerns related to COVID-19.
2. Employees who request EPSL or EFML to care for a child whose school or place of care is closed, or child care provider is unavailable due to COVID-19-related reason, must provide documentation that child care is unavailable. This could be fulfilled by:
 - A. A written statement by the employee of which public school his or her child attends; or
 - B. A notice of closure or unavailability from the child's place of care, or child care provider, including a notice that may have been posted on a day care website or emailed to the employee from a place of care, or child care provider.