



City of Eugene Emergency Family and Medical Leave Expansion Act (EFMLA) FAQ

Implementation of the Families First Coronavirus Response Act

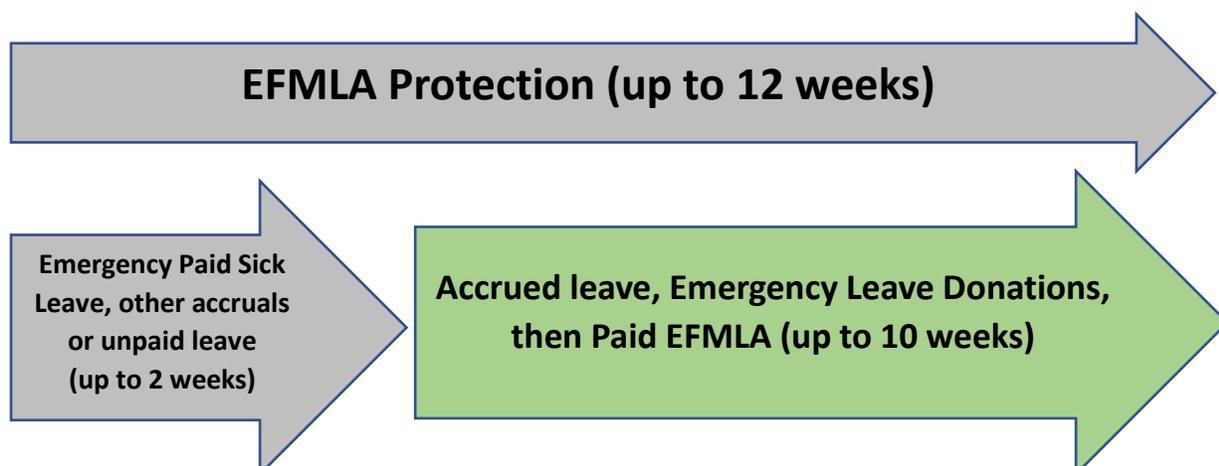
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In March of 2020 the Federal Government passed the Families First Coronavirus Response Act. This act establishes Emergency Paid Sick Leave and the Emergency Family and Medical Leave Expansion Act. This FAQ is intended to serve as a supporting guide to help employees at the City of Eugene understand Emergency Family and Medical Leave Expansion Act (EFMLA) and the City's plan to implement these programs. This is a living document and will be updated as necessary. If after you review this document you still have questions or need clarification please contact Employee Resource Center staff, Shelli Kirkpatrick, Bonnie Windham and Tracy Bridge for more information.

Q1: What is Emergency Expanded Family and Medical Leave?

A1: Emergency Expanded Family and Medical Leave expands eligibility for employees to use their FMLA entitlement of up to 12 weeks of protected leave if they are not able to perform available work or telework due to a need to care for their child under the age of 18 whose school or place of care has been closed or if their childcare provider is unavailable due to public health emergency. Employees are eligible for this leave if they have been employed for 30 days and have an available FMLA balance.

The first two weeks of EFMLA is unpaid unless the employee chooses to use Emergency Paid Sick Leave or their other leave balances. After the first two weeks of eligible EFMLA leave is taken, employees are required to code all accrued leave, except Comp Time, for additional EFMLA leave taken. Employees may choose to use accrued compensatory time during FMLA/OFLA leave. If all accrued leave and comp time is exhausted, employees would be eligible to apply for Emergency COVID-19 Leave Donations. Once all accrued and donated leave is exhausted, the remaining eligible EFMLA leave entitlement will be paid at 2/3 of the employee's regular rate of pay.



Q2: Is all leave under FMLA now paid?

A2: No, the only type of FMLA leave that is paid is expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act as outlined above. However, employees can still use their accrued leave balances while out on other types of FMLA/OFLA leave.

Q3: Is EFMLA leave in addition to the existing 12 weeks of FMLA leave?

A3: No, using either type of leave will draw from the same 12 weeks of Federally Protected Family and Medical Leave in a 12 month period.

Q4: How do I apply for EFMLA and what documentation will be required?

A4: If possible, you should first talk to your supervisor to explore flexible work options that may relieve or reduce the need for EFMLA. If EFMLA is still needed, you should complete the [Family and Medical Information Form](#) available on the Employee Benefits website and submit it to BenefitsStaff@eugene-or.gov. Please contact the ERC or your supervisor if you are unable to complete the form.

Documentation to support your need for leave may be required, including a notice of school or childcare closure due to the COVID-19 outbreak.

Q5: When is the Emergency Family and Medical Leave Expansion Act effective?

A5: They are effective from April 1, 2020 to December 31, 2020. This program is not retroactively available. Eligibility for EFMLA may end early if the school or child care closure no longer applies.

Q6: Which city employees are eligible to access this type of leave?

A6: All City employees (Regular, Limited Duration and Temporary) can access these leave options so long as they meet other eligibility requirements.

Q7: If I am home with my child due to a child care or school closure should I use Emergency Paid Sick Leave or Emergency Family and Medical Leave or both?

A7: You may be eligible for both types of leave, but only for a total of up to twelve weeks. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. EPSL can be used during the first two weeks of expanded family and medical leave, which are otherwise unpaid under the Emergency Family and Medical Leave Expansion Act. After the first two weeks have elapsed, employees will be required to concurrently utilize their existing leave banks, and if all accrued leave is exhausted may apply for Emergency Leave Donations, after which the City will compensate employees at 2/3 of their regular rate of pay.

Q8: If the City no longer has work available to me can I still access Expanded Family and Medical Leave?

A8: No, if you are sent home and the City is no longer paying you because there is not work for your to do, you will not be eligible to access these benefits. You may be eligible for unemployment insurance benefits.

Q9: While coding EFMLA, will I still be covered by my City of Eugene health insurance plan? Will my contributions change?

A9: You will remain enrolled in your current City of Eugene Health Insurance Plan while taking EFMLA. Your contributions will remain the same as they would be if you were not taking EFMLA.

Q10: Will I still accrue leave while taking EFMLA?

A10: Yes, you will continue to accrue applicable leave on any paid leave taken.

Q11: Who qualifies as “my child” for these leave options?

A11: Your own child, which includes your biological, adopted, or foster child, your stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child. For additional information about in loco parentis, see Fact Sheet #28B: Family and Medical Leave Act (FMLA) leave for birth, placement, bonding or to care for a child with a serious health condition on the basis of an “in loco parentis” relationship.

In light of Congressional direction to interpret definitions consistently, the U.S. Wage and Hours Division clarifies that under the FFCRA a “son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability. For additional information on requirements relating to an adult son or daughter, see Fact Sheet #28K and/or call the WHD toll free information and help line available 8 am–5 pm in your time zone, 1-866-4US-WAGE (1-866-487-9243).

Q12: Can this leave be used intermittently? (Updated 4/24/20)

A12: Maybe. With supervisor approval, EFMLA can be used intermittently in any agreed upon increment. You should work with your supervisor to determine a schedule for intermittent use.

Q13: What is my regular rate of pay for the purposes of Expanded Family and Medical Leave?

A13: Your regular rate of pay will be the average of your regular rate over a period of up to six months prior to the date in which you take leave. If you have not been with the City of Eugene for 6 months your regular rate of pay will be calculated based on your average regular rate of pay for each week you have been employed by the City of Eugene.