**EMPLOYEE RIGHTS**

**Paid Sick Leave and Expanded Family and Medical Leave**

**Under the Families First Coronavirus Response Act**

**April 1, 2020 through December 31, 2020**

**This document will serve as general guidance for MAISD employees, however, each circumstance will be handled individually and in accordance with the Mid-Michigan District Health Department.**

**Family Medical Leave Act**

FMLA provides an eligible employee unpaid, concurrent leave for a qualifying condition such as if the employee has a “serious health condition” or is caring care for a spouse/child/parent who has a “serious health condition”. A “serious health condition” includes inpatient care or continuing treatment by a health care provider. **ELIGIBILITY:** 12 months employment and 1,250 hours worked. **LENGTH OF LEAVE**: Up to 12 weeks. **PAID TIME:** Comes out of employee PTO bank.

**Emergency Family Medical Leave Expansion Act (EFMLEA)**

EFMLEA leave is available for an employee caring for the employee’s child if school or childcare facility has closed or if childcare provider unavailable and no other suitable person is available to care for child. **ELIGIBILITY:** Employed 30 calendar days. **LENGTH OF LEAVE**: Up to 12 weeks. **PAID TIME:** First 10 days may be unpaid. Employee may use EPSL. The employee may substitute EPSL or accrued PTO, vacation, or sick time, in any order, but employee is not required to do so. After the first 10 days of leave, EFML will be paid at a rate of no less than two-thirds of the employee’s usual rate of pay. The EFMLEA limits the amount of leave to no more than $200 per day and $10,000 in total.

**Emergency Paid Sick Leave Act (EPSLA)**

EPSLA provides paid leave under a number of COVID-19 related criteria. Does not apply if an employee can telework or if there is no work to do (e.g., a business has closed). **ELIGIBILITY:** No employment duration requirement. **LENGTH OF LEAVE**: 80 hours for full time employees; average number of hours worked during a typical two-week period for part-time employees. **PAID TIME:** The employee is unable to work or telework because: (1) The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19. (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 COVID19 and seeking a medical diagnosis. (4) The employee is caring for an individual who is subject to a quarantine or isolation order as described in (1) above, above, or has been advised as described in (2) above. (5) The employee is caring for a son or daughter whose school or place of care has been closed, or the child care provider is unavailable, due to COVID-19 precautions. (6) 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.

$511 per day ($5,110 in the aggregate) where leave is taken for reasons (1), (2), and (3) above calculated using 100% of an employee’s regular rate of pay. • $200 per day ($2,000 in the aggregate) where leave is taken for reasons (4), (5), or (6) calculated using two-thirds of an employee’s regular rate of pay.

**Question and Answer:**

**Q. Employee is afraid of meeting in a group and refused to go to work.**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO, unless eligible employee has a NO NO

 “serious health condition”

**Q. Employee cites own non-covid condition as reason for accommodation/leave.**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

YES, if eligible employee has a NO NO

 “serious health condition”

**Q. Employee is asymptomatic and awaiting test results**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

Maybe NO Yes. Up to 80 hours (pro-rated for part- time) paid leave subject to FCRA max unless employee can telework.

**Q. Employee is severely ill with COVID-19**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

Yes NO Yes. Up to 80 hours (pro-rated for part- time) paid leave subject to FCRA max unless employee can telework.

**Q. Employee is immunocompromised and advised to self-quarantine by Health Care Provider**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

Maybe if eligible employee has a “serious NO Yes. Up to 80 hours (pro-rated for part-

health condition” time) paid leave subject to FCRA max unless employee can telework.

**Q. Employee has been exposed to someone with COVID-19 and order to quarantine or a health care provider advises the employee to quarantine.**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

Maybe if eligible employee has a “serious NO Yes. Up to 80 hours (pro-rated for part-

health condition” time) paid leave subject to FCRA max unless employee can telework.

**Q. Employee (with the general public) is subject to stay-at-home order**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO NO Yes. Up to 80 hours (pro-rated for part-

 time) paid leave subject to FCRA max unless employee can telework.

**Q. Employer reduces employee’s hours due to school closure**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO NO NO

**Q. Employee is caring for family member that has COVID-19**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

Yes, if eligible employee’s parent/child/ NO Yes. Up to 80 hours (pro-rated for part-

spouse has a “serious health condition” time) paid leave subject to FCRA max unless employee can telework.

**Q. Employee cites family member’s issue or illness as reason for accommodation/leave but is not “caring for” the family member nor is there a “quarantine/isolation order” in place/**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO NO No

**Q. School or other place of care is closed, due to COVID-19 and employee has no childcare for son or daughter.**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO Yes. First 10 days are unpaid Yes. Up to 80 hours (pro-rated for part-

 (See EPSLA) paid leave per statute. time) paid leave subject to FCRA max unless employee can telework.

**Q. I have a cough and a fever and I’m self-isolating, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

No. Unless you receive inpatient NO NO. Unless you are advised by a health care

care (i.e., you’re hospitalized) or provider to self-quarantine due to concerns about

are under continuing care COVID-19 or are seeking a medical diagnosis due

(i.e., you visited a doctor AND to COVID-19 symptoms.

received prescription treatment OR

you have visited a doctor two or

more times for the same cough

and fever) for more than three days,

then even if you have a cough and fever

for more than three days, it does not

qualify for “traditional” FMLA leave.

**Q. I’ve been diagnosed with COVID-19 and my doctor told me to remain in self isolation for 14 days, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

No. Unless you receive inpatient NO Yes. Up to 80 hours (pro-rated for part-

care (i.e., you’re hospitalized) or time) paid leave subject to FCRA max

are under continuing care unless employee can telework.

(i.e., you visited a doctor AND

received prescription treatment OR

you have visited a doctor two or

more times for the same cough

and fever) for more than three days,

then even if you have a cough and fever

for more than three days, it does not

qualify for “traditional” FMLA leave.

**Q. My in-law has been hospitalized with COVID-19, do I qualify for leave.**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO NO No

**Q. My employer has ordered me to stay home for the next 30 days, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO NO Maybe. If your employer ordered you to stay home

because it does not have work for you to do, you do

 not qualify. If your employer ordered you to stay home

 and you are unable to work or telework because of a

 federal, state or local shelter-in-place or stay at home order

 and your employer has work for you, you will qualify, but

 paid leave is only available for two weeks.

**Q. I have been furloughed by my employer, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

NO NO No

**Q. I’ve been diagnosed with COVID-19 and hospitalized, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

YES NO Yes. Up to 80 hours (pro-rated for part-

 time) paid leave subject to FCRA max unless employee can telework.

**Q. My father/mother was diagnosed with COVID-19 and hospitalized, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

MAYBE. You may qualify for traditional NO Probably not.

FMLA leave in order to care for certain Although you could obtain leave to care for parent if your

Family members, such as a spouse, a child, parent was self-isolated due to his diagnosis with COVID-19,

Or a parent, but you must establish that you are this scenario involves hospitalization rather than self-

needed to care for that family member. Since isolation, so you would not be needed to care for your parent.

Your parent would be hospitalized, it is not likely that

a health care provider would certify that you are needed

to care for your parent. However, you may be able

to qualify after your parent is released in order to help

them recover.

**Q. My spouse was exposed to COVID-19 as part of his job and has been ordered by his doctor to self-isolate because he poses a threat to the community, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

No. Unless your spouse has a NO Probably, if you’ve been advised by a health care

‘serious health condition” as provider to self-quarantine and are unable to work

Defined by FMLA, you do not or telework. If your spouse has COVID-19 but is still

qualify for leave. asymptomatic, you may also have been exposed to the

 virus through him, and a healthcare provider may also

 order you to self-isolate.

**Q. I have flu like symptoms and I think I may have COVID-19 and am waiting on test results, do I qualify for leave?**

“Traditional” FMLA Emergency FMLA (EFMLEA) Emergency Paid Sick Leave (EPSLA)

No. you have a serious health condition NO Yes. Up to 80 hours (pro-rated for part-

that lasts more than three days, you do not time) paid leave subject to FCRA max

qualify. However, you may become unless employee can telework.

qualified if you are under continuing treatment

or inpatient care.

Information provided by Thrun Law Firm, P.C. and Gallagher