

CITY OF YUBA CITY
STAFF REPORT

Date: January 19, 2021
To: Honorable Mayor and Members of the City Council
From: Human Resources Department
Presentation By: Natalie Springer, Human Resources Director

Summary

Subject: City Employee Policies in Response to the COVID-19 Pandemic
Recommendation: Adopt a Resolution approving supplemental emergency paid leave in response to the COVID-19 Pandemic
Fiscal Impact: Unknown but estimated at \$63,000 for salary and benefits

Purpose:

To approve temporary emergency paid leave benefit in response to the COVID-19 pandemic.

Background:

On March 19, 2020, Executive Order N-33-20 was signed by Governor Newsom ordering Californians to stay at home to slow the spread of COVID-19. However, the Executive Order also directed essential state and local government functions to remain open, including law enforcement and offices that provide government programs and services. As such, many City functions have remained operational, and therefore employees involved in such functions are exempt from "stay at home" orders related to COVID-19 for work purposes.

Our employees are not, however, exempt from the virus itself or from related impacts of COVID-19 that require employees' absence from work. Beginning April 1, 2020, the City began providing paid leave in accordance with the Families First Coronavirus Response Act (the "FFCRA"). Passed in March 2020 in response to the COVID-19 pandemic, the FFCRA created two kinds of emergency paid leaves for eligible employees generally described as follows: 80 hours of Emergency Paid Sick Leave ("EPSL," for employees who were sick/seeking a diagnosis or caring for family members) and up to 12 weeks Emergency Family Medical Leave Act leave ("EFMLA," for parents whose children's schools or care facilities had been closed due to the pandemic) These provisions were in effect as of April 1, 2020 and expired December 31, 2020. California adopted AB1867 in October to provide supplemental paid sick leave for emergency responders that had been excluded under the FFCRA. Both the FFCRA paid leaves and the companion state paid leave mandate expired December 31, 2020. As of the writing of this staff report, no legislation has been passed to extend these paid leave laws beyond December 31, 2020 or create any new ones.

Analysis:

The purpose of the recent federal and state paid pandemic leave mandates was to minimize the spread of COVID-19 in the workplace and to provide paid leave for employees experiencing COVID-19 close contact, diagnosis, or positive test result. Additionally, they provided support to families impacted by school or daycare closures due to COVID-19. In part, the current proposal is to provide a temporary similar City program that is largely modeled after FFCRA.. The proposal is also to assist those who wish to be vaccinated against the COVID-19 virus by providing them paid leave time from work to do so. Ultimately the goals of these proposals are to prevent the spread of COVID-19 and minimize its impacts on City employees and operations.

Staff is proposing two new temporary paid leave benefits.

(A) The first is Vaccination Appointment Pay (VAP) of up to two hours paid leave time, at the employee's straight time rate of pay (not counted as work time for purposes of overtime calculations) for an employee to use to obtain a COVID-19 vaccination. If the appointment to receive such vaccination takes longer than two hours, employees would be able to utilize accrued sick leave to cover the balance of any time away from work to complete the appointment. This temporary leave benefit would expire at close of business March 31, 2021 unless extended by City Council action.

(B) The second proposal is to provide **employees who have not already used the full allotment of FFCRA leaves** an opportunity to use some or all of the balance such leave (up to maximums described below) between now and March 31, 2021 with a specified pay structure as part of a "Yuba City Emergency Pandemic Leave" ("YCEPL") benefit as set forth below.

Sick Leave Purposes– through March 31, 2021, employees would be able to receive up to 40 hours of YCEPL (prorated for part-time employees), paid at their regular rate of pay, if they are unable to work or telework for the following reasons:

- (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 an identified 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.
- (4) Employee is seeking a COVID-19 test or waiting upon COVID-19 test results.

Caregiver Leave Purposes – through March 31, 2021, an employee would be able to receive up to 40 hours of YCEPL leave, paid at 2/3 the employee's regular rate of pay, because 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 an identified health care provider to self-quarantine due to concerns related to COVID-19 order as described in subparagraph (1) or has been advised as described in paragraph (2) above or is seeking treatment as described in paragraph (3) above. Leave at this rate may also be used for the first 40 hours (again, if not utilized in 2020 for either EPSL or EFMLA) for Childcare Leave purposes as described further below. The YCEPL paid leave rate for such leave may be supplemented with other accrued paid leaves to achieve full pay status.

Childcare Leave Purposes – through March 31, 2021, a non-safety employee (i.e. not sworn police or fire personnel) who had not exhausted the EFMLA benefit in 2020 would be able to take the balance of such leave to care for a dependent son or daughter of such employee 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 (as described in FFCRA and as administered through the Department of Labor regulations for the former EFMLA benefit). Hours of such leave would be paid by the City at 50% of the employee's straight time rate of pay if, and expressly conditioned upon, the employee supplements each hour of YCEPL childcare leave with other accrued City-paid leave to achieve full pay status. Staff is recommending that the City's typical sick leave usage rules continue to be relaxed temporarily to allow for such supplementing of COVID-driven care leave. Employees who choose not to utilize any of their other accrued paid leaves would be able to take available hours of such YCEPL childcare leave in fully unpaid status.

Emergency responders seeking childcare leave described above are invited to request it, and the requests will be evaluated on a case-by-case basis in light of then-current staffing, operational conditions, and City's ability to adequately cover essential services.

- Compensation under leave categories in this proposal would be subject to the daily and cumulative compensation caps corresponding with similar leaves in the 2020 FFCRA.
- The proposed YCEPL benefit is not additional leave time on top of the original federal or state leave program amounts, but rather an extension of a period during which a similar leave benefit is being voluntarily provided by the City. For example, if an employee has already utilized 80 hours of EPSL in 2020, this employee does not receive any additional hours of YCEPL for sick leave or caregiver purposes (although they could use other accrued City leaves, such as sick leave, vacation leave, compensatory time off, etc.). Similarly, an employee who had utilized 6 of the available 12 weeks of EFMLA leave in 2020 would have only a maximum of 6 additional weeks of such similar leave available through YCEPL.
- The City has been grappling with how to address the expiration of FFCRA leaves since December 2020. If approved, Staff's recommendation is for applicable YCEPL benefits to be paid retroactively to qualifying employees with qualifying absences from January 1, 2021 forward.
- YCEPL is an independent leave benefit from any other paid City leave accrued (e.g. sick leave, vacation leave, etc). YCEPL as described above has no cash value, may only be used by eligible employees for the identified reasons, and does not accrue or carryover past the YCEPL expiration date of March 31, 2021, unless such expiration date is extended by City Council action.
- YCEPL must be requested and approved (a form will be provided) in accordance with the FFCRA practices and procedures used by the City in 2020. Once approved YCEPL has begun to be used, the employee and the employee's manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive YCEPL paid or unpaid leave time.
- YCEPL will run concurrently with other unpaid leave entitlement programs (e.g. FMLA, CFRA) when the need for leave qualifies under applicable criteria. If federal or

state paid leave programs should be adopted after approval of YCEPL, YCEPL will run concurrently with such new benefit mandates except as otherwise required by law.

- All temporary leave benefits proposed under this Staff recommendation would expire at close of business March 31, 2021 unless extended by City Council action.

Finally, Staff also proposes that in the unusual circumstance when an employee has exhausted YCEPL leave benefits, has exhausted accrued City sick leave as well, and still qualifies for and needs sick leave for reasons (1)-(4) above, that such employee be temporarily permitted to run a negative sick leave balance (i.e. be advanced regular City paid sick leave) up to -80 hours maximum that will be replaced with future accruals. This negative balance option would also expire March 31, 2021 absent a specific extension by the City Council.

Fiscal Impact.

The fiscal impact is difficult to address as it may vary depending on the number of employees impacted by COVID-19. The average EPSL cost per month in 2020 was \$14,300 for salary and benefits, while the average monthly cost for EFMLA was \$6,800. Relying on those same averages, the projected cost over three months in early 2021 is roughly \$63,000.

Alternatives:

Do not approve employee policies and provide staff direction.

Recommendation:

Adopt a Resolution approving the proposed temporary paid leave benefits due to the COVID-19 pandemic.

Attachments:

- A. Resolution
- B. COVID-19 Leave Time Chart

Prepared By:

[/s/ Natalie Springer](#)
Natalie Springer
Human Resources Director

Submitted By:

[/s/ Diana Langley](#)
Diana Langley
Interim City Manager

Reviewed By:

Finance Director
Special Counsel

[SM](#)
[SS by email](#)

ATTACHMENT A

RESOLUTION NO. _____

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF YUBA CITY
AMENDING EMPLOYEE POLICIES
IN RESPONSE TO THE COVID-19 PANDEMIC**

WHEREAS, the City recognizes the need to amend employee policies in response to the COVID-19 pandemic; and

WHEREAS, the Emergency Family Medical Leave Expansion Act (EFMLA) and Emergency Paid Sick Leave (EPSL) expired December 31, 2020; and

WHEREAS, the City Council now wishes to approve a City program to support employees during the COVID-19 pandemic,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Yuba City as follows:

Approve the amended temporary employee leave policies in response to the COVID-19 pandemic, specifically:

(A) Vaccination Appointment Pay (VAP) of up to two hours paid leave time, at the employee's straight time rate of pay (not counted as work time for purposes of overtime calculations) for an employee to use to obtain a COVID-19 vaccination. This temporary leave benefit would expire at close of business March 31, 2021 unless extended by City Council action.

(B) Yuba City Emergency Pandemic Leave" ("YCEPL") benefit, available to employees who did not exhaust EFMLA or EPSL (or the companion state leave for emergency responders) in 2020, as set forth below.

Sick Leave Purposes– through March 31, 2021, employees receive up to 40 hours of YCEPL (prorated for part-time employees), paid at their regular rate of pay, if they are unable to work or telework for the following reasons:

- (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 an identified 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.
- (4) Employee is seeking a COVID-19 test or waiting upon COVID-19 test results.

Caregiver Leave Purposes – through March 31, 2021, an employee receives up to 40 hours of YCEPL leave, paid at 2/3 the employee's regular rate of pay, because 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 an identified health care provider to self-quarantine due to concerns related to COVID-19 order as described in subparagraph (1) or has been advised as described in paragraph (2) above or is seeking treatment as described in paragraph (3) above. Leave at this rate may also be used for the first 40 hours (again, if not utilized in 2020 for either EPSL or EFMLA) for Childcare Leave purposes as described further below. The YCEPL paid leave rate for

such leave may be supplemented with other accrued paid leaves to achieve full pay status.

Childcare Leave Purposes – through March 31, 2021, a non-safety employee (i.e. not sworn police or fire personnel) who had not exhausted the EFMLA benefit in 2020 would be able to take the balance of such leave to care for a dependent son or daughter of such employee 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 (as described in FFCRA and as administered through the Department of Labor regulations for the former EFMLA benefit). Hours of such leave would be paid by the City at 50% of the employee's straight time rate of pay if, and expressly conditioned upon, the employee supplements each hour of YCEPL childcare leave with other accrued City-paid leave to achieve full pay status. Sick leave usage rules continue to temporarily to allow for such supplementing of COVID-driven care leave. Employees who choose not to utilize any of their other accrued paid leaves would be able to take available hours of such YCEPL childcare leave in fully unpaid status.

Additional terms and conditions that apply to YCEPL include the following:

- a. Emergency responders seeking childcare leave described above are invited to request it, and the requests will be evaluated on a case-by-case basis in light of then-current staffing, operational conditions, and City's ability to adequately cover essential services.
- b. Compensation under leave categories in this proposal would be subject to the daily and cumulative compensation caps corresponding with similar leaves in the 2020 FFCRA.
- c. The proposed YCEPL benefit is not additional leave time on top of the original federal or state leave program amounts, but rather an extension of a period during which a similar leave benefit is being voluntarily provided by the City, under the conditions expressed in this Resolution.
- d. Applicable YCEPL benefits to be paid retroactively to qualifying employees with qualifying absences from January 1, 2021 forward.
- e. YCEPL is an independent leave benefit from any other paid City leave accrued (e.g. sick leave, vacation leave, etc). YCEPL as described above has no cash value, may only be used by eligible employees for the identified reasons, and does not accrue or carryover past the YCEPL expiration date of March 31, 2021, unless such expiration date is extended by City Council action.
- f. YCEPL will run concurrently with other unpaid leave entitlement programs (e.g. FMLA, CFRA) when the need for leave qualifies under applicable criteria. If federal or state paid leave programs should be adopted after approval of YCEPL, YCEPL will run concurrently with such new benefit mandates except as otherwise required by law.
- g. All temporary leave benefits proposed under this Staff recommendation would expire at close of business March 31, 2021 unless extended by City Council action.

(C) When an employee has exhausted YCEPL leave benefits, has exhausted accrued City sick leave as well, and still qualifies for and needs sick leave for reasons (1)-(4) above, that such employee be temporarily permitted to run a negative sick leave balance (i.e. be advanced regular City paid sick leave) up to -80 hours maximum that will be replaced with future accruals. This negative balance option would also expire March 31, 2021 absent a specific extension by the City Council.

The foregoing Resolution of the City Council of the City of Yuba City was duly introduced, passed and adopted at a regular meeting thereof held on the 19th day of January, 2021.

AYES:

NOES:

ABSENT:

Marc Boomgaarden, Mayor

ATTEST:

Ciara Wakefield, Deputy City Clerk

Approved as to form:

Stacey Sheston
BB&K, Special Counsel

ATTACHMENT B

		Isolation/Quarantine Period	Options through December 31, 2020	Options starting January 1, 2021 (proposed), expire March 31, 2021
COVID-19 close contact	Personal exposure	Up to 10 calendar days of quarantine, remote work may be an option	80 hours EPSL Other options: sick leave (if symptomatic) or other accrued leave, Short Term Disability (must meet program qualifications), Catastrophic Leave (must meet program qualifications) or unpaid leave	Up to 40 hours YCEPL (proposed) dependent on having an unused EPSL balance Other options: sick leave (if symptomatic) or other accrued leave, Short Term Disability (must meet program qualifications), Catastrophic Leave (must meet program qualifications) or unpaid leave
	Work exposure	Up to 10 calendar days of quarantine, remote work may be an option	Paid administrative leave per City Council authority then worker's compensation if positive COVID-19 test result or diagnosis	Paid administrative leave per City Council authority then worker's compensation if positive COVID-19 test result or diagnosis
COVID-19 positive test or diagnosis result	Personal	10 calendar days of isolation, remote work may be an option	80 hours EPSL Other options: sick leave (if symptomatic) or other accrued leave, Short Term Disability (must meet program qualifications), Catastrophic Leave (must meet program qualifications) or unpaid leave	Up to 40 hours YCEPL (proposed) dependent on having an unused EPSL balance Other options: sick leave (if symptomatic) or other accrued leave, Short Term Disability (must meet program qualifications), Catastrophic Leave (must meet program qualifications) or unpaid leave

	Work	10 calendar days of isolation, remote work may be an option	EPSL is required by SB 1159 (while paid administrative leave is authorized by City Council, SB 1159 requires EPSL), if no EPSL then paid administrative leave as authorized by City Council, then to worker's compensation	Worker's compensation (no requirement to utilize YCEPL first before worker's compensation)
Note: Temporary employees is available is pro-rated based on the hours scheduled to be worked				
Leaves for childcare of school closures due to COVID-19			80 hours EPSL (2/3 pay) then EFMLA (10 additional weeks-2/3 pay) Other options: vacation, sick (proposed/temporary), compensation time, or work from home	To the extent EFMLA was not exhausted in 2020, 40 hours YCEPL (2/3 pay) for first initial weeks, then childcare leave (50% of employee's straight time, requires employee to use paid leave for the other 50%, up to 10 additional weeks) Other options: vacation, sick (proposed/temporary), compensation time, work from home, Day Camp (if child is school age, independent to complete schooling)