



April 16, 2020

President Marguerite Young
East Bay MUD Board of Directors
375 Eleventh St., Oakland, CA 94607

Re: COVID-19 leave

Dear President Young,

The four Unions in coalition at EBMUD (AFSCME Locals 444, 2019; IUOE Local 39 and IFPTE Local 21) have been requesting the District provide COVID-19 leave relief since March 5, 2020. We have been in discussions with management and have petitioned the Board of Directors on March 10, March 24 and again on April 7 voicing concerns about protecting the workforce that operates and maintains the District's critical infrastructure.

On March 19 the Unions formalized their requests of management into a demand letter (attachment 1), and HR responded on March 20 (attachment 2), largely rejecting the Unions' demands and only offering to advance negative sick-time due payable upon separation. On March 23, HR revised their response (attachment 3), and further revised their response again on April 7 (attachment 4). The EBMUD Director of HR has consistently rejected the Unions' requests and demands, even threatening to contract-out the backlog and citing the MOU zipper clause as reason not to bargain; however, on March 27, the Federal Government promulgated the Families First Coronavirus Response Act (FFCRA) making additional COVID related sick leave available, and the Bay Area Counties made a more prescriptive order to shelter-in-place, specifying what was and was not "essential work", clarifying for management that much of the work they were intent upon deeming essential was not. We now have some 50% of our front-line workers sheltering-in-place consistent with the order in two-week rotations.

The FFCRA provides minimum employer standards for protection of their workforce by extending an additional 80-hrs of COVID-19 sick leave for a sick employee, care for a sick family member or an order to quarantine, with a \$511 per day maximum. This is a minimum Federal employer requirement; the District can and should exceed this requirement not by exceeding the \$511 per day max, but by extending the minimum beyond the 80hrs to cover the entire duration of the illness.

The FFCRA also provides an expansion of FMLA (FMLA+), providing two-thirds of the wages of an

employee who cannot telecommute and who has to provide childcare for a dependent whose school is closed due to the shelter-in-place order, with a \$200 per day maximum. Again, this is a minimum Federal employer threshold. The District can and should do better. The Unions request that the District provide FMLA+ at two-thirds of employee wages, regardless of the \$200 day Federal maximum, and extend FMLA+ coverage to employees who cannot telecommute and care for any at-risk/COVID-vulnerable family member, defined as eldercare or care for an immune compromised family member. Employees should also be allowed to make up the remaining one-third of their pay with use of PTO accruals.

To date, HR has rejected these necessary expansions to leave requests. Instead offering to pay the full wages for only the FFCRA 80-hrs of COVID-19 sick leave, which covers 100% of employee wages for earners in excess of \$132k per year, which is in excess of the highest base wage of many of our represented classifications. HR has offered to expand the FMLA+ coverage by paying the first 80-hrs at full wages (using the FFCRA leave), but not lifted the \$200 per day maximum for childcare, nor extended it to eldercare or care for medically vulnerable family members who cannot care for themselves.

This is unacceptable to our Union members, your frontline workers who operate and maintain the critical infrastructure for the communities we serve and cannot telecommute. If our members fall ill due to contracting COVID-19, their needed leave time may be well in excess of two weeks – serious cases can last much longer and CDC guideline for “virus-free” requires two negative tests followed by two weeks of symptom-free self-quarantine. Additionally, some of our members are caregivers for elderly parents and/or medically vulnerable family members who may be directed by their healthcare professional to self-isolate; FMLA+ should be extended to cover those members.

Sincerely,

Dan Harper, AFSCME Local 444
Eric Larsen, AFSCME Local 444
Joseph Pangelinan, AFSCME Local 444
Kym Anderson, AFSCME Local 2019
Joey Smith, AFSCME Local 2019
Gus Cicala, AFSCME Local 2019
Angela Long IFPTE, Local 21
Marc Carradine, IFPTE Local 21
John Hayden, IFPTE Local21
Stan Eichenberger, IUOE, Local 39

cc: EBMUD Board of Directors
Alex Coate, General Manager, EBMUD
Laura Acosta, Manager of Human Resources
Jill Gaskin, Manager of Employee Relations