
	Town of Chapel Hill, NC	Appendix to PP 2-8 FMLA policy	I. POLICY	Approved By:  Cliff Turner, Director Human Resource Development
	Families first Coronavirus Response Act Procedures	Issue Date: April 1, 2020	II. PURPOSE III. PROCEDURE IV. FORMS/INSTRUCTIONS V. ADDITIONAL CONTACTS VI. DEFINITIONS VII. RESPONSIBILITIES VIII. APPENDICES IX. FAQ X. SCOPE XI. RELATED INFORMATION XII. POLICY HISTORY	

APPENDIX A

FAMILIES FIRST CORONAVIRUS RESPONSE ACT PROCEDURES

These procedures are issued by the Director of Human Resource Development to implement the Families First Coronavirus Response Act, issued by the Federal Government on March 18, 2020 in response to the COVID-19 crisis. These procedures may be periodically updated. These procedures will be in effect until the Families First Coronavirus Response Act is rescinded or expires, whichever comes first.

Please see important note in Section D below regarding First Responders.

The Act has two provisions: Emergency Sick Leave and a New FMLA Qualifying Provision for Lack of Childcare due to COVID-19.

A. Emergency Sick Leave Eligibility

Employees may be eligible for two weeks of pay at full pay or 2/3 of their base pay.

1. **Full Pay Eligibility:** All employees are eligible for up to two weeks of paid sick leave at full base pay (80 hours for a full time employee; prorated based on a part-time employee's average workweek) when an employee is unable to work or telework for any of the following reasons:
 - a) The employee is quarantined due to a Federal, State, or local government order
 - b) The employee is quarantined on the advice of a health care provider due to COVID-19
 - c) The employee is experiencing COVID-19 symptoms and seeking a medical diagnosis
 - d) The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury

2. 2/3 Pay Eligibility: All employees are eligible for up to two weeks of paid leave at 2/3 base pay (which is calculated based on 80 hours for a full time employee; prorated based on a part-time employee's average workweek) when the employee is unable to work or telework for either of the following reasons:
 - a) The employee must care for an individual who is subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or

The employee must care for a child (under 18 years of age) whose school or childcare provider is closed or unavailable for reasons related to COVID-19

3. Leave is Concurrent: These two provisions run concurrently, meaning that the maximum amount of emergency sick leave time an employee can receive under this part of the Act is equal to two work weeks.

B. Emergency Sick Leave Documentation

An employee should provide as much notice as is possible before taking Families First Leave.

1. For Employee's Own Health Condition: Provide Human Resource Development (HRD) a signed and dated note from a health care provider stating the need for the leave.
2. For Childcare leave: Fill out and sign the Child Care Leave Request Form and return to the Human Resource Development Department.
3. For Quarantine: Provide HRD with a notice of Quarantine.
4. To Care for Another Individual: Provide HRD with a signed and dated note from a health care provider stating the need for leave.

C. New FMLA Qualifying Reason: Lack of Child Care Due to COVID-19

1. Eligibility: All employees whose first day of work with the Town was on or before March 2, 2020, are eligible for up to twelve weeks of FMLA leave to care for a dependent child under qualifying conditions.
2. Benefit: After a 10 work day wait period, the Act provides up to 10 workweek equivalents at 2/3 base pay (calculated based on 80 hours for a full-time employee; prorated based on a part time employee's average workweek). Benefit levels are capped at \$200.00 per day. The emergency sick leave for childcare can be used to fulfill the 10 day wait period, or the employee may use their own leave, or may take the time unpaid. Benefit is capped at \$200.00 per day, \$10,000 total.

3. Criteria: The employee must be unable to work or telework for the following reason:
 - a) Care for a child under 18 years of age of such employee if the school or place of care has been closed, or the [child care provider](#) is unavailable due to an emergency with respect to COVID-19 as declared by a federal, state, or local authority;
 - b) The regular rules under the FMLA will apply to job reinstatement. The Town has the same obligation as under traditional FMLA to return any employee who has taken Emergency FMLA leave to the same or equivalent position upon the return to work.

4. Families First Emergency FMLA Leave Rules:
 - a) Employees are still limited to a total of twelve weeks of FMLA leave within a 12-month period for all reasons combined.
 - b) Employees who have already used up their FMLA leave entitlement for the year are not entitled to Families First Emergency FMLA leave.
 - c) As with regular FMLA leave, where the need for leave is foreseeable, employees must provide the Town as much advance notice as practicable.
 - d) As with regular FMLA, fraudulent use or abuse of this leave is subject to disciplinary action.

5. Emergency FMLA Leave Documentation: Fill out and sign the [Child Care Leave Request Form](#) and return to the Human Resource Development Department. The Town reserves the right to request additional documentation.

6. Return to Work: Employees are required to promptly notify their supervisors when they no longer need Families First leave. They must complete all return-to-work requirements. Employees who have been out due to their own health condition may be required to provide a medical release or complete a return-to-work assessment.

7. Abuse of Families First Leave: Abuse of or falsification of the need for Families First Leave is considered detrimental personal conduct under the Town's Disciplinary Policy, PP 5-3. Any employee who is found to have falsified any information regarding their need for Families First leave will be subject to disciplinary action, up to and including termination from employment.

D. Important Note Regarding First Responders:

The Act allows local governments to exclude “first responders” as defined by the Act from the provisions of the Act. At this time the Town has chosen to extend Emergency Sick Leave and Expanded FMLA to these first responders in acknowledgement of their service in this difficult time. This policy, however, does not establish a contractual relationship between the Town and any employee and the Town retains the authority to modify any of these provisions within the limits established by applicable law. The Town will provide at least a 7 day notice if it deems it necessary to exclude “first responders” from these provisions.

The Town’s first responders, as defined by the Act, include sworn police and fire employees, public works employees, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.

IV. FORMS/INSTRUCTIONS:

[Child Care Leave Request Form](#)

V. ADDITIONAL CONTACTS:

Human Resource Development 919-968-2700 or HR@townofchapelhill.org

Ombuds office 919-265-0806 or Ombuds@townofchapelhill.org

Employee Assistance Program 1-800-326-3864

Payroll Department 919-968-2893

VI. DEFINITIONS

Child Care Provider: A “childcare provider” under the Act is defined as one who provides childcare services on a regular basis and *receives compensation* for those services. It excludes the situation where a family member has been providing childcare and is no longer available.

First Responder: A Sworn Police Officer or Fire Department employee involved in Life Safety, Emergency Operations and Emergency Management; a public works employee; as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.

FMLA: The Family Medical Leave Act, which provides job-protected leave for eligible employees

VII. RESPONSIBILITIES

All Employees are expected to:

- a) Be aware of the Town's Families First Procedures
- b) Use Families First Leave only for its intended purpose
- c) Consult their HRD partner about anything they do not understand

All Supervisors/Managers are expected to:

- a) Collect documentation when an employee requests Families First Leave
- b) Remain in communication with any employee on leave to check on their well-being.
- c) Seek guidance from their HRD Partner about the Families First Procedures

All Department Heads are expected to:

- a) Be aware of Town's Families First Procedures
- b) Assure that the employee has provided adequate documentation
- c) Maintain appropriate documentation of leave requests

All Human Resource Development staff members are expected to:

- a) Provide guidance for employees and managers on Families First procedures.

VIII. APPENDICES

None

IX. FREQUENTLY ASKED QUESTIONS: In development

X. SCOPE

These procedures replace and supersedes any previous Town policies, departmental policies, handbooks, or unwritten policies or practices covering the same subject. Departmental policies in compliance with this policy are referenced in Section XI Related Information. In the event of any disparity between these procedures and the Town's Code of Ordinances and/or applicable local, state, or federal laws, the Town's Ordinance and/or applicable laws shall prevail.

XI. RELATED INFORMATION

XII: POLICY HISTORY:

These procedures were developed to help Town employees understand the provisions of the Families First Coronavirus Response Act of 2020 <https://www.dol.gov/agencies/whd/pandemic>

Emergency Family and Medical Leave Expansion Act Child Care Leave Request Form

General Information

The new Emergency Family and Medical Leave Expansion Act (“Emergency FMLA Act”) adds a new category of qualifying reasons for the employee to take job-protected leave to the FMLA, in addition to the original leave for the employee’s own or a family member’s serious health condition and the birth, adoption or foster care placement of a child.

Now, up to twelve weeks of leave may be taken under this new qualifying reason (“emergency FMLA leave”) when an employee is unable to work (or telework) due to a need for leave to care for the son or daughter under 18 years of age of such employee if the school or place of care has been closed, or the child care provider of such son or daughter is unavailable due to an emergency with respect to COVID-19 as declared by a federal, state or local authority.

Note that the Emergency FMLA Act defines “child care provider” as one who provides child care services on a regular basis and *receives compensation* for those services. It excludes the situation where a family member has been providing child care and is no longer available.

This new provision applies to any employee who has worked for at least 30 days. This new act does not change the eligibility requirements for regular FMLA leave.

Child Care Data

Please list the names (First and Last) and dates of birth for your children, under the age of 18, with whom you are charged with caring for, in accordance with the above guidelines of the Emergency Family and Medical Leave Expansion Act:

Name: _____ Date of Birth (mm/dd/yyyy): _____

Name: _____ Date of Birth (mm/dd/yyyy): _____

Name: _____ Date of Birth (mm/dd/yyyy): _____

Name: _____ Date of Birth (mm/dd/yyyy): _____

Name: _____ Date of Birth (mm/dd/yyyy): _____

Name: _____ Date of Birth (mm/dd/yyyy): _____

Employee Information

I have read and understand the above information. All information provided is truthful and in keeping with the guidelines of the Emergency Family and Medical Leave Expansion Act and the Towns Values.

Employee Name: _____

Employee Signature: _____ Date
(mm/dd/yyyy): _____

*Please print, fill out, and send form to HRD.

