



TOWN OF HILLSBOROUGH

PERSONNEL POLICY

POLICY 121

CREATED 04/2020

SUBJECT: EMERGENCY PAID SICK LEAVE AND FAMILY MEDICAL LEAVE EXPANSION ACT

EFFECTIVE: APRIL 1, 2020 THROUGH DECEMBER 31, 2020

STATEMENT OF POLICY:

This Policy establishes guidelines and procedures for employee leaves in accordance with the Families First Coronavirus Response Act of 2020 (FFCRA).

The policy of the Town of Hillsborough is to allow employees to take leave in order to maintain a healthy, safe, and productive workforce and to prevent the spread of COVID-19, and to comply with any state or federal regulations regarding employee leave entitlements. This policy shall supersede all interim policy guidelines related to Emergency Paid Sick Leave and Family and Medical Leave issued by the Town in response to the declared local health emergency prior to April 1, 2020. This policy is subject to change at any time in the event that subsequent guidance or clarification issued by the Department of Labor is inconsistent with this policy, or subsequent amendments to the FFCRA places additional requirements for employers with respect to employee leave entitlements.

A. Emergency Paid Sick Leave

Eligibility

All Town employees are eligible for Emergency Paid Sick Leave if the employee is unable to work (or unable to telework) due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19¹

¹ Pursuant to Department of Labor regulations (29 CFR a quarantine or isolation order includes quarantine, isolation, containment, shelter-in-place, or stay-at-home orders issued by any Federal, State, or local government authority that cause the employee to be unable to work even though his or her employer has work that the employee could perform but for the order. This also includes when a Federal, State, or local government authority has advised categories of citizens (e.g., of certain age ranges or of certain medical conditions) to shelter in place, stay at home, isolate, or quarantine, causing those categories of employees to be unable to work even though their employers have work for them. (Note: Employees performing duties in support of essential Town operations are excluded from current State and County shelter-in-place/stay-at-home orders.

2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms (including fever, cough, shortness of breath, and related respiratory symptoms) and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Except for leave taken under sections (1), (2), or (3) listed above, the Town may deny leave to emergency responders whose services are necessary for emergency response operations. In addition, emergency responders may be called back to service after being approved for leave if emergency conditions change and the emergency responder's service is required. For further information regarding emergency responder designations, see Appendix A.

Amount of Leave

Full-time employees are eligible for 80 hours of Emergency Paid Sick Leave. For employees on alternative work schedules, the number of hours shall be based on the employee's regularly scheduled hours within a two-week period.

Part-time employees are eligible for the number of the employee's regularly scheduled hours during a two-week period. For employees with variable schedules, whose regularly scheduled hours cannot be reasonably determined, the number of hours shall be calculated based on the average number of hours that the employee was scheduled per day over the preceding 6-month period ending on the date on which the employee commences leave, including hours for which the employee took any type of paid leave.

Pursuant to the FFCRA, employees are eligible for up to 80 hours (or equivalent to two weeks) of leave beginning on April 1, 2020. Any Emergency Paid Sick Leave granted by the Town that had been utilized prior to April 1, 2020 shall not count against the employee's 80-hour/two-week leave limit.

Compensation

The Town will compensate the employee at the employee's full regular rate of pay for Emergency Paid Sick Leave.

Procedures

Employees are not required to utilize any other accrued leaves prior to utilizing Emergency Paid Sick Leave. A health care provider's certification is not required for Emergency Paid Sick Leave use; however, employees are required to complete a self-certification form (**Attachment 1**).

In the event that leave is denied due to the employee's designation as an emergency responder, the Department Head shall notify the employee in writing after consultation with the Human Resources Manager.

Emergency Paid Sick leave may be used intermittently. Generally, this would not apply in cases where the employee is subject to a 14-day quarantine or isolation period (i.e., reasons 1, 2 and 3 listed above), unless employee is able to work remotely for a portion of their schedule.

In the event that an employee has exhausted their Emergency Paid Sick Leave, and continues to be unable to work due to reasons 1, 2, 3, or 4 above, the employee may utilize regular accrued sick leave or other available accrued leaves. The employee may also be eligible for FMLA/CFRA leave as defined in Policy 116. In the event that an employee has exhausted their Emergency Paid Sick Leave, and continues to be unable to work due to reason 5 above, the employee may qualify for Emergency Family and Medical Leave as described below.

Emergency Paid Sick Leave may not be cashed out at any time nor applied towards CalPERS service credit, and leave shall not be carried over beyond the term of this policy.

B. Emergency Family and Medical Leave Expansion Act (EFMLEA) and Public Health Emergency Paid Leave

The Family FMLA provides 12 weeks of unpaid, job-protected leave per 12-month period to employees to care for themselves or seriously ill family members. Employees are eligible for FMLA/CFRA leave if they have worked at least 1,250 hours in the preceding 12-month period.

The EFMLEA expands certain eligibility provisions of the FMLA, but does not provide additional time beyond the 12 total weeks available for FMLA leave. In addition, the EFMLEA provides for Paid Public Health Emergency Leave as described below.

Eligibility

Employees are eligible for Emergency FMLA (EFMLEA) leave if the following requirements are met:

- (1) The employee has worked for the Town for at least 30 calendar days; and
- (2) The employee is unable to work (or telework) due to a need to care for their child (under 18 years of age) whose school or place of care has been closed, or who's child care provider is unavailable due to a COVID-19 emergency declared by either a Federal, State, or local authority.
- (3) The employee provided reasonable notice of the need for the leave.

The Town may deny EFMLEA leave if the employee is an emergency responder, whose services are necessary for emergency response operations. For further information regarding emergency responder designations, see Appendix A.

Amount of Leave

Pursuant to Policy 116, employees are eligible for up to 12 weeks of job-protected FMLA leave during a 12-month period, commencing on the first day the employee takes leave. EFMLEA does not provide additional leave beyond this amount, therefore any EFMLEA grant shall count toward the total 12 weeks of available FMLA leave within a 12-month period.

Compensation

The first 10 days of Emergency Family Medical Leave shall be unpaid; however the employee may elect to utilize accrued leaves during this period, including Emergency Paid Sick Leave as defined in section A.

After the tenth (10th) day of leave, the employee is entitled to Public Health Emergency Paid Leave.

Procedures

Employees may request Emergency FMLA leave by completing a self-certification form, **Attachment 2**.

In the event that leave is denied due to the employee's designation as an emergency responder, the Town shall notify the employee in writing.

Employees may elect, but are not required, to utilize accrued paid leaves (vacation, comp time, floating holiday, or management administrative leave) prior to taking Public Health Emergency Paid Leave.

Except where specified by this policy or by Federal regulations, all guidelines, procedures, and terms and conditions of FMLA leave as outlined in Policy 116 shall apply to EFMLA leave, where applicable.

Communication

This policy shall be distributed to all employees and to new employees upon hire, and shall be posted on the intranet site accessible to all employees.

Additional information

Additional information regarding employee rights and employer responsibilities under the FFCRA can be found on the Department of Labor website:

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

Appendix A

Emergency Responder Designation

Pursuant to guidelines issued by the Department of Labor, an Emergency Responder is defined as:

“...an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state’s or territory’s or the District of Columbia’s response to COVID-19.”

In an effort to prevent the spread of COVID19, the Town will evaluate emergency responder leave exclusions on a case-by-case basis, depending on the current emergency conditions, the needs of emergency responsibility operations, and the availability of personnel necessary for continued operation. The following serves as general guidance for the Guidance for Emergency Responder as it pertains to Town operations

- Police – All Sworn personnel, non-sworn personnel as necessary to maintain law enforcement operations
- Park Maintenance – All personnel necessary to repair or mitigate dangerous or hazardous conditions in public parks or other Town-maintained areas.
- Public Works Maintenance – All personnel necessary to maintain the safe operation of critical Town infrastructure.
- Facilities – All personnel necessary to the maintenance of facilities above-referenced functions
- Administration – All personnel necessary to maintenance of operations for the above listed functions

In addition, positions within these functions, any position may be designated as Emergency Responder if the City Manager determines that such skills are necessary to provide aid to emergency response operations, including efforts to prevent the spread of COVID19, and pursuant to the Town’s Disaster Service Worker Policy.

Emergency Paid Sick Leave Certification

(Families First Coronavirus Response Act)

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (Department) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements. These provisions will apply from the effective date of April 1, 2020 through December 31, 2020.

Employees are eligible for up to eighty (80) hours of Emergency Paid Sick Leave (or the equivalent of two weeks of leave for part-time employees) for specified reasons.

Completed forms must be sent to:

Human Resources

Attn: Kristin Armbruster, karmbruster@hillsborough.net

For Completion by the EMPLOYEE

SECTION I: Employee Information

Employee Name:	
Department:	Supervisor:
Email:	Phone Number:

I, _____, certify that I am unable to work (or telework) for one of the following reasons (circle number):

1. I am subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. I have been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. I am experiencing symptoms of COVID-19 (e.g., fever [defined as 100.4° F [37.8° C] or greater using an oral thermometer], coughing, and/or shortness of breath) and seeking a medical diagnosis.
4. I am caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
Relationship to individual _____

5. I am caring for my child whose school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19 precautions.
6. I am experiencing another 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.

Date(s) of Leave:

Payroll Instructions:

For leave taken for reasons 1, 2, or 3 listed above, use time code COVID19 – Sick.
For leave taken for reasons 4, 5, or 6 listed above, use time code COVID19 – Family Care.

SECTION II: Signatures

I understand that if my circumstances change, I must immediately inform my supervisor and the Town and I may be directed to report back to work (or telework).

Employee Signature

Date

Supervisor Signature

Date

Department Head Signature

Date

Emergency Family and Medical Leave Certification Child Care/School Closure

(Families First Coronavirus Response Act)

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (Department) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements. These provisions will apply from the effective date of April 1, 2020 through December 31, 2020.

The Act allows for 12 weeks of expanded family and medical leave in the event that an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child-care provider is closed or unavailable for reasons related to COVID-19. Please note, employees have a combined total of 12 weeks of FMLA leave regardless of the reason for which leave is taken.

Pursuant to guidance issued by the Department of Labor, the Town may exempt emergency responders from EFMLEA leave. Please see Appendix A of EPSL and FFCRA policy for details.

Completed forms must be sent to:

Human Resources

Attn: Kristin Armbruster, karmbruster@hillsborough.net

For Completion by the EMPLOYEE

SECTION I: Employee Information

Employee Name:	
Department:	Supervisor:
Email:	Phone Number:

SECTION II: Child Care/School Closure Information

Child's Name:	
Child Care/School Attended and Location:	
Date Leave Starts:	

