

**Town of Dedham**  
**Policy for Implementation of Federal “Families First Coronavirus Response Act” (FFCRA)**

**Preface**

FFCRA was signed into law on March 18, 2020 and is effective from April 1, 2020 until December 31, 2020. The purpose of FFCRA is to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. The Town is obliged and committed to following the mandates of FFCRA. A flyer outlining employee rights under FFCRA is attached to this policy. **Please note that effective April 1, 2020, the grounds for COVID-19 related absences must conform to FFCRA and this policy.** The Town’s existing FMLA leave policy still applies to all other reasons for leave outside the scope of FFCRA and this policy.

Please note, though, that the Town is extending certain benefits beyond the mandates of FFCRA. These enhanced benefits are noted *in italics* below. **The Town reserves the right to amend, suspend, or eliminate these enhanced benefits upon further notice to you, but in no event will the Town provide less than is required under FFCRA.**

The “COVID-19 Staffing Policy” contained in the Town Manager’s memorandum of March 18, 2020, as updated by the Town Manager’s memorandum of March 23, 2020, remains in effect except as expressly modified by FFCRA and this policy. To the extent that there is a conflict between the provisions of the March 18 and 23, 2020 memoranda and this policy, the provisions affording greater rights to the employee shall control. **This effectively means that this new, FFCRA-based policy will impact primarily essential personnel, as defined in the March 23, 2020 memorandum, as other Town employees are already working from home and receiving their regular pay.**

**FFCRA gives employers of emergency responders and health providers the right to exempt such employees from FFCRA. The Town is not exempting such employees at this time, but reserves the right to do so if public safety or other conditions going forward warrant it and to recall such employees to duty.**

**Expanded FMLA Leave**

**Employee Eligibility**

All employees who have been employed with the Town of Dedham for at least 30 days.

**Reason for Leave**

Eligible employees who are unable to work (or work remotely) due to a need to care for their child when the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19.

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

- (A) under 18 years of age; or
- (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

“Childcare provider” means a provider who receives compensation for providing childcare services on a regular basis, including:

- a center-based childcare provider
- a group home childcare provider
- a family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
- other licensed provider of childcare services for compensation
- a childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent.

“School” means an elementary or secondary school.

### **Duration of Leave**

Employees will have up to 12 weeks of leave to use from April 2, 2020, through December 31, 2020, for the purposes stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA leave under this policy.

### **Pay During Leave**

Leave will be unpaid for the first 10 days of leave; however, employees may use any accrued paid vacation, sick or personal leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as further explained below. After the first 10 days, leave will be paid at two-thirds of an employee’s regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day, and \$10,000 in total. Any unused portion of this pay will not carry over to the next year.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

*The Town will allow employees to utilize any accrued paid vacation, sick or personal leave to supplement the pay levels provided under FFCRA to make up the difference between FFCRA pay and regular pay.*

### **Employee Status and Benefits During Leave**

While an employee is on leave, the Town will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must continue to make this payment per instructions from the HR department.

If the employee contributes to a life insurance or disability plan, the employer will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums, or the employer may elect to maintain such benefits during the leave and pay the employee's share of the premium payments. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

### **Procedure for Requesting Leave**

All employees requesting FMLA leave must provide written notice, where possible, of the need for leave to the HR Director as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided. Within five business days after the employee has provided this notice, the HR Director will complete and provide the employee with any Department of Labor (DOL) required notices.

The notice the employee provides should include a brief statement as to the reason for leave, and if possible, the expected duration. **Unless the need for such leave is evident or known to the Town, the Town will require suitable written documentation of the need for leave.**

On a basis that does not discriminate against employees on FMLA leave, the Town may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work.

### **Employee Status After Leave**

Generally, an employee who takes FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The Town may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

## **Emergency Paid Sick Leave**

### **Eligibility**

All full- and part-time employees unable to work (or work remotely) due to one of the following reasons for leave:

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 COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to either number 1 or 2 above.
5. The employee is caring for his or her child if the school or place of care of the child has been closed, or the childcare provider of such child 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.

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

- (A) under 18 years of age; or
- (B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

### **Amount of Paid Sick Leave**

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. Eligible part-time employees are entitled to the number of hours worked, on average, over a two-week period.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

### **Rate of Pay**

Paid emergency sick leave will be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 will be compensated at two-thirds their regular rate of pay, or minimum wage, whichever is greater. Pay will not exceed:

- \$511 per day and \$5,110 in total for leave taken for reasons 1-3 above;
- \$200 per day and \$2,000 in total for leave taken for reasons 4-6 above.

*The Town will allow employees eligible for leave for reasons 1-3 above to remain on such leave so long as they remain eligible and the Town will continue to pay such employees at their regular rate of pay without regard to the time or dollar limits specified above. For employees remaining eligible for leave under reasons 4-6, the Town will allow employees to utilize any accrued paid vacation, sick or personal leave to continue to be paid beyond the 80-hour limit and the dollar limits specified above.*

### **Interaction with Other Paid Leave**

The employee may use emergency paid sick leave under this policy before using any other accrued paid time off for the qualifying reasons stated above.

Employees on expanded FMLA leave under this policy may use emergency paid sick leave during the first 10 days of normally unpaid FMLA leave.

### **Procedure for Requesting Emergency Paid Sick Leave**

Employees must notify the HR Director of the need and specific reason for leave under this policy. A form will be provided to all employees via Employee Self Service (ESS). Verbal notification will be accepted until practicable to provide written notice. **Unless the need for such leave is evident or known to the Town, the Town will require suitable written documentation of the need for leave.**

Once emergency paid sick leave has begun, the employee and the HR Director must determine reasonable procedures for the employee to report periodically on the employee's status and need to continue to remain absent from work and/or receive paid sick time.

### **Carryover**

Paid emergency sick leave under this policy will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

### **Job Protections**

No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined or discriminated against for work time missed due to this leave. **However, any employee utilizing or attempting to utilize the protections of FFCRA or this policy in a fraudulent or otherwise inappropriate manner will be subject to discipline, up to and including termination of employment.**

Please contact the HR department (781-751-9142 or [LBailey@dedham-ma.gov](mailto:LBailey@dedham-ma.gov)) with any questions.

***This policy does not establish a past practice/precedent due to the unprecedented circumstances that have given rise to it.***