



Town of
Chapel Hill,
NC

Family and
Medical Leave
Act Personnel
Policy

Policy Number:
PP 2-8

Effective Date:
July 1, 2017

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Approved By:

Roger L. Stancil,
Town Manager

Family and Medical Leave Act Policy

I. POLICY

The Town of Chapel Hill complies with the [Federal Family and Medical Leave Act \(FMLA\), which allows](#) eligible employees of covered employers to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

US Dept. of
Labor,
[Wage and
Hour
Division,
FMLA](#)

II. PURPOSE

Family and medical leave helps employees who must deal with their own serious illness; the illness of an FMLA- defined qualifying family member; or for the birth, adoption, or new placement of a foster child into the home. Freedom from the worry of losing one's job due to these life events protects the mental well-being of valued Town employees, in alignment with our Safety value.



Safety: We strive to maintain our own mental and physical well-being and the well-being of those around us. We are dedicated to a work environment that minimizes risk of injury or accident. We are also dedicated to an environment that provides for honest and courteous discussion of workplace issues without fear of repercussion.

The Director of Human Resource Development is authorized to issue procedures consistent with this policy.

	Town of Chapel Hill, NC	Policy Number: PP 2-8	I. POLICY	Approved By:  Cliff Turner, Director Human Resource Development
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III. Family and Medical Leave Act Procedures

These procedures are issued by the Director of Human Resource Development to implement the Family and Medical Leave Act Policy, PP 2-8, issued by the Chapel Hill Town Manager. These procedures may be periodically updated.

A. Determining Eligibility:

1. Employment Criteria: Employees who have been employed by the Town for at least 12 months and have worked at least 1,250 hours in the 12 months preceding the start of the leave are eligible for FMLA leave. Only hours actually worked count toward the 1250-hour requirement.
2. Qualifying Use: Eligible employees can take up to 12 weeks of job-protected leave for one of these qualifying uses, or in accordance with federal, state or local laws, as they may be periodically updated or modified. ([US Department of Labor, Wage and Hour Division, Fact Sheet #28 F](#))
 - a) For the birth of a child, and to bond with the newborn child within one year of birth.
 - b) The placement of a child for adoption or foster care and to care for the newly placed child within one year of placement.
 - c) To care for an employee's spouse, son, daughter, or parent who has a serious health condition.
 - i. Employees requesting leave to care for a qualifying domestic partner should use the procedures outlined in [PP 2-13 Non-FMLA Medical Leave of Absence](#). Qualifying domestic partners are defined in the [Town's Code of Ordinances, Section 1-2](#).

- d) A serious health condition that makes the employee unable to perform the functions of his or her job.
- e) **For qualifying exigencies** arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty or call to covered active duty status as a member of the National Guard, Reserves, or Regular Armed Forces.
 - i. Special Provisions to Care for a Covered Service member: The FMLA allows eligible employees to take up to 26 workweeks of unpaid, job-protected leave in a "single 12-month period" to care for a covered service member with a serious injury or illness.

- 3. Determining the 12 month Eligibility Period: The Town will use a 12- month measurement period to determine eligibility. The eligibility period is calculated based on the number of hours actually worked in the 12-months preceding the request for FMLA. Subsequent requests will be calculated based on a 12-month rolling eligibility period. Each time the employee submits a request for FMLA leave, the Town will calculate the number of hours the employee has worked in the previous 12-month period.

B. When FMLA Need is Foreseeable:

- 1. Notice Requirements: Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. When a 30-day notice is not possible, the employee must provide notice as soon as is practical.
 - a) In the case of FMLA leave for a qualifying exigency of a military family member, the employee must give notice of the need for such leave as soon as possible and practical, regardless of how far in advance the leave is needed.

2. Planned Medical Treatment:

The employee must consult with his or her employer and try to schedule the treatment at a time that minimizes the disruption to operations. The employee should consult with the employer prior to scheduling the treatment in order to arrange a schedule that best suits the needs of both the employee and employer. Of course, any schedule of treatment is subject to the approval of the treating health care provider.

C. When FMLA Leave is not Requested or Foreseeable:

When the need for leave is unexpected, the employee must provide notice as soon as possible and practical. In most situations, it is reasonable to expect that the employee would provide at

least 24-hour notice. Whether the employee's notice of unforeseeable leave is timely will depend upon the facts of the particular case.

D. Requesting Leave:

Forms: Employees may obtain FMLA leave request and medical certification forms from the Human Resource Development (HRD) department or from their department's Payroll and Benefits Representative. Completed requests for FMLA should be sent to HRD.

E. Determination of Eligibility: HRD will respond to an employee's written request for FMLA leave within five (5) business days of the receipt of the request.

- a) Eligible: If the employee is eligible, the response will specify any additional information required as well as the employee's rights and responsibilities.
- b) Not Eligible: If the employee is not eligible, the Town will provide a reason for the ineligibility.
- c) Role of HRD: HRD will inform employees as soon as practical if the employee is eligible for the requested leave and of the number of hours the employees is entitled to.
- d) Three-Day Guideline: Leave may be designated as FMLA when a qualifying event requires the use of three consecutive days of leave.

F. Authority to Designate: Employees on approved leave who qualify for FMLA, but do not submit a notice or request for FMLA, may be placed on FMLA by the Town. The Town will notify an employee of the designation as soon as is practical. Leave may be designated as FMLA when a qualifying event requires the use of three consecutive days of leave.

G. Medical Certification: Employees who are requesting medical or military FLMA must submit a completed Medical Certification Form to HRD.

1. Recertification: Employees who are on FMLA may be required to submit recertification forms if the employee requests an extension of the originally approved leave, or if circumstances described in a previous certification, such as the duration or nature of the illness, change significantly. The Town may also require recertification if it receives information that casts doubt on the continuing validity of the certification.

H. Validity of Certification :

1. Contact by Employer: If an employee submits a complete certification signed by the health care provider, the Town may not request additional information. However, a health care

provider, human resource professional, a leave administrator, or a management official representing the Town may contact the employee's health care provider, with the employee's permission, for purposes of clarification and authenticity of the medical certification. The employee's direct supervisor cannot contact the employee's health care provider.

2. Incomplete or Insufficient Medical Certification: If the Town deems a medical certification to be incomplete or insufficient, the Town shall specify in writing what information is lacking, and give the employee seven calendar days to cure the deficiency.
3. Second Opinion: If the Town has reason to doubt the validity of a medical certification, it may require the employee to obtain a second opinion with the following conditions:
 - a) the Town bears the expenses, including reasonable "out of pocket" travel expenses;
 - b) the Town may not require the employee or family member to travel outside normal commuting distance except in very unusual circumstance;
 - c) pending receipt of the second (or third) opinion, the employee is provisionally entitled to FLMA leave;
 - d) if the certifications do not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave; and
 - e) the Town will designate the health care provider to furnish the second opinion.

The Town may deny FMLA leave to an employee who refuses to release relevant medical records to or otherwise cooperate with the health care provider designated to provide a second or third opinion.

Some Reasons Why the Town Might Request a Second Opinion.

- a. Recurrent FMLA requests that occur as soon as the employee becomes eligible for it
- b. Requests signed by a medical professional other than a licensed physician, Doctor of Osteopathy, or a Licensed Nurse Practitioner
- c. Certification by a medical professional not licensed to practice in the United States of America

4. Results of Second Opinion: The second opinion will be the Town's final determination of an employee's FMLA eligibility. If the employee disagrees with the second opinion, they may submit a written request for a third opinion to the Town's HRD department within five (5) business days of receiving the Town's determination of FMLA eligibility.
5. Third Opinion: If an employee requests a third opinion, the Town will pay for the third opinion and the third opinion shall be final and binding. The third health care provider must be jointly designated or approved by the Town and the employee. The employer and the employee must each act in good faith to attempt to reach agreement on whom to select for the third opinion provider. If the employer does not attempt in good faith to reach agreement, the employer will be bound by the first certification. If the employee does not attempt in good faith to reach agreement, the employee will be bound by the second certification.

Communication with Employee: The employee may make a written request to HRD for a copy of the second and/ or third medical opinion. The Town will provide the opinion within five (5) business days of receiving the written request.

I. Retroactive Leave:

An employee may request that prior qualifying absences be designated retroactively as FMLA by notifying the supervisor and/or HRD within two (2) business days of their return to work and providing appropriate documentation. This provision does not apply to previously designated intermittent leave.

The Town may also, retroactively designate qualifying leave as FMLA upon the employee's return to work and the submission of the appropriate documentation.

J. Unanticipated FLMA Leave:

An employee should notify HRD as soon as is practical and provide appropriate documentation when they must be absent from work for an FMLA- qualifying event.

K. How FMLA Leave Can Be Taken: Leave may be taken consecutively, intermittently, or on a reduced schedule when medically necessary. Leaves due to qualifying exigencies may be taken on an intermittent basis.

- a) Leave for the Birth, Adoption, or Foster Placement of a Healthy Child: In general, the Town prefers that FMLA leave taken for these reasons be taken as a continuous block of leave. However, intermittent leave can be taken if approved by the employer. Approval

is subject to the operational needs of the department. The department may require reasonable advance scheduling notice to take intermittent leave to care for a healthy child.

- i. Paid parental leave must be taken as a continuous block of leave. In these instances, intermittent leave may be requested for the remaining FMLA entitlement period. It will begin after the completion of the paid parental leave continuous block of leave.
- L. Workers' Compensation: When an employee qualifies for FMLA, leave will run concurrently with Worker's Compensation leave during a work related injury or illness.
- M. Pay and Benefits:
1. Use of Leave: Employees may use paid leave benefits such as vacation, compensatory time, holiday, donated leave, or leave without pay. All use of paid leave must comply with the Town's leave use policies.
 2. Maintenance of Benefits: During an approved leave the Town will continue to pay the employer's share of benefits including health insurance premium and disability insurance in accordance with the Town's policies. Employees are responsible for any deductions they have withheld from their paychecks, including dependent healthcare premiums, dental insurance, voluntary disability coverage, 401K, child support and any other miscellaneous deductions.
 - a) If the employee's paycheck is not sufficient to pay for their deductions, the Town will not pay them on behalf of the employee.
 - b) Employees may make arrangements with the Town for future payments of medical, dental, and disability deductions. All other deductions are the responsibility of the employee.
 3. Timesheet Meeting: Employees should work with their Payroll/Benefits representative or designated representative to fill out their timesheet (s) prior to their leave to the extent that is possible.
 4. Payroll and HRD Consultation: Questions about salary, benefits, and payroll deductions during an employee's FMLA leave should be referenced to the payroll division of Business Management and the Human Resource Development Department.
 5. FMLA Designation for Holidays: If an employee is on FMLA leave but performs work for any position of a week in which a Town-recognized holiday falls, then the employee is entitled to

holiday pay/leave. Otherwise, if the employee is in unpaid status, then the employee is not entitled to holiday pay. Holidays that occur during the employee's FMLA leave count against the employee's FMLA entitlement and cannot be used to extend the leave period.

N. Return to Work:

1. Same or Equivalent Position: Eligible employees are entitled to be restored to the same or an equivalent position as they held when the leave started.
2. Medical Release and Certification: Employees on leave for a non-work related condition must present a medical release certifying that they are medically capable of performing the essential functions of the job.
3. Requesting Additional Leave after FMLA has been Exhausted: Employees not able to return to work after using all FMLA leave benefits may request additional leave. Additional leave requires the approval of the Department Head and/or Town Manager. See the Town's Non-FMLA Medical Leave Policy for more details.
4. Temporary Reassignment during Intermittent or Reduced Schedule FMLA: In cases where intermittent leave or a reduced schedule has been approved, the Department is allowed to temporarily reassign the employee to a different position for the duration of the leave. Employees who are reassigned will not lose any pay or benefits. Reassignment should be for the purposes of better accommodating the employee's need for leave and/or the Department's operational needs.
5. Options if Employee is Unable to Perform Essential Functions: If an attending physician or Town-approved physician determines that an employee will no longer be able to perform the essential functions of his/her job, even with reasonable accommodations, the employee must elect one of the following options within 60 days of such notification:
 - a) Retirement: pursue a medical retirement under the N.C. State Retirement System, if eligible, with an effective date no later than 90 days from the assessment date;
 - b) Alternative Employment: seek a transfer to another vacant position for which he/she is qualified; Salary placement will be based on the pay grade of the new position; or
 - c) Termination: be terminated from Town employment for medical reasons.
 - d) Resign from employment with the Town in good standing.

6. Failure to return to work: Failure to report at the expiration of the leave, unless an extension has been requested, may be considered as a resignation.

G. FMLA Recordkeeping and Administration:

1. Employees should submit FMLA requests to HRD.
2. HRD makes eligibility determination and notifies the Department that the employee has been approved for FMLA.
3. The Department must forward a completed Personnel Transaction Form (PTF) to HRD for each employee who is approved for FMLA.
4. Departments are responsible for ensuring that time cards are properly coded and reflect the FMLA leave designation.
5. Hours coded to FMLA will be tracked in the Town's HRIS system.
6. Employees who request FMLA leave should consult with HRD and Payroll to receive individualized assistance and have their questions answered.
7. FMLA records are confidential and maintained by the Human Resource Development Department.

V. FORMS/INSTRUCTIONS:

[Certification of Health Care Provider for Employee's Serious Health Condition \(US Dept. of Labor\)](#)
[Certification of Health Care Provider for Family Member's Serious Health Condition \(US Dept. of Labor\)](#)
[Certification of Qualifying Exigency for Military Family Leave \(US Dept. of Labor\)](#)
[Certification for Serious Injury or Illness of Covered Service member—for Military Family Leave \(US Dept. of Labor\)](#)

FORM 2-8 A Town of Chapel Hill Request for Family and Medical Leave

V. ADDITIONAL CONTACTS:

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

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

VI. DEFINITIONS:

The provisions of the Family and Medical Leave Act (FMLA) are highly detailed, including the definitions of many key terms used in this policy. Please consult the various fact sheets published by the US Department of Labor. <http://www.dol.gov/whd/fmla/>

Following is a partial list of terms used in this policy whose definitions may be found in the Federal Act:

- A. **Covered Service member** - means a member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list for a serious injury or illness.
- B. **Family Member—FMLA Definition**—The Family and Medical [Leave Act defines a qualifying family member](#) as the employee’s spouse, child, or the employee’s own parent. In rare circumstances, some other family members may also qualify. The Town’s Policy also includes domestic partner as defined in the [Town’s Code of Ordinances, Section 1-2](#).
- C. **Health Care Provider:** - A Doctor of medicine or Osteopathy who is authorized to practice medicine or surgery in the State of North Carolina, or any other person determined by statute, credential or licensure to be capable of providing health care services which include:
1. Physician Assistants, Podiatrists, Dentists, Clinical Psychologists, Clinical Social Workers, Optometrists, Nurse Practitioners, Nurse Midwives, Chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist);
 2. Health care providers from whom the Town’s approved group health plan will accept certification of a serious health condition to substantiate a claim for benefits.
- D. **Intermittent Leave** - Leave that is not taken consecutively or leave taken on a reduced schedule. An example of intermittent leave might be leave that is taken spread over a period of months.
- E. **Twenty-six Week Period** - for purposes of FMLA military family leave applicable to a qualifying FMLA condition means twenty-six work weeks of leave during a single twelve month period of care for the service member. Twenty-six workweeks is the maximum amount of FMLA leave in a single twelve-month period and cannot be combined with an additional 12 weeks for other FMLA reasons.
- F. **Qualifying Exigency Leave** -The military leave entitlement helps families of members of the National Guard and Reserves manage their affairs while the member is on active duty in support of a contingency operation. For more information, please refer to [Fact Sheet #28 M C Qualifying Exigency Leave under the Family and Medical Leave Act](#)
- G. **Qualifying military events and related activities;** Childcare and school activities; Financial and legal arrangements; Counseling; Rest and recuperation; Post-deployment activities; Additional activities not encompassed in the other categories, but agreed to by the employer and employee

- H. **Serious Health Condition** - A condition that requires inpatient care at a hospital, a residential medical care facility; or a condition, which requires continuing care by a licensed health care provider.
- I. **Serious Injury or Illness for Covered Service members** -The term “serious injury or illness,” in the case of a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness incurred by the member in the line of duty while on active duty in the Armed Forces that may render the member medically unfit to perform the duties of the member’s office, grade, rank, or rating.

VII. RESPONSIBILITIES:

All Employees are expected to:

- a) Promptly notify HRD when they anticipate a need for FMLA leave, or as soon-as is practical.
- b) Notify supervisor of need for leave.
- c) Fill out paperwork and provide requested documentation.
- d) Provide medical certifications or return to work documentation when requested
- e) Use FMLA only for its intended purpose.
- f) Ask questions about anything they do not understand.

All Supervisors/Managers and Department Heads are expected to:

- a) Direct employees to HRD if there is any reason to believe that the employee might qualify for FMLA. A leave request might qualify for FMLA, or if an employee has been off work for more than 3 days for any reason other than annual leave.
- b) Accommodate approved FMLA leave requests, such as intermittent or reduced schedule leave.
- c) Seek guidance from HRD about the FMLA.

All Human Resource Development staff members are expected to:

- a) Maintain confidentiality regarding FMLA requests.
- b) Assist all employees in understanding and applying for FMLA leave.
- c) Assist managers and department heads in complying with approved FMLA leave requests.
- d) Gather and maintain appropriate documentation.
- e) Promptly communicate with employees about their FMLA leave request status and any other issues about FMLA.
- f) Assure that the Town complies with all provisions of FMLA.

VIII. APPENDICES: None

IX. FREQUENTLY ASKED QUESTIONS:

The Federal Government has extensive resources, including FAQ's, definitions, eligibility criteria, and more, on its FLMA website, <http://www.dol.gov/whd/fmla/>

Please consult these resources for specific information about FMLA. Employees who want more assistance with their particular FMLA needs should contact their HRD partner, or a member of the HRD team, to receive accurate information relevant to their particular circumstances.

X. SCOPE: This policy applies to all employees who qualify under the FMLA guidelines.

XI. RELATED INFORMATION:

[The Federal Family Medical Leave Act of 1993](#), for extensive information about the Act, including eligibility criteria, legal obligations, Frequently Asked Questions, qualifying uses, and more.

[Fact Sheet #28 M C Qualifying Exigency Leave under the Family and Medical Leave Act](#)

[Town of Chapel Hill Code of Ordinances Section 1-2](#), for a definition of a covered domestic partner.

The following Town Policies Intersect in some way with FMLA. All these policies may be found on the Town's website in the HRD Policy Library on the [HRD Homepage](#), or upon request from the HRD office.

PP 2-1	Leave Donation Policy	PP 2-13	non-FMLA Medical Leave
PP 2-3	Holiday Pay	PP 2-14	Leave of Absence
PP 2-6	Town Sick Leave Policy	PP 2-15	Return to work
PP 2-9	Annual Leave	PP 6-1	Health Insurance
PP 2-10	Worker Compensation	PP 9-1	Reduction in Force
PP 2-11	Parental Leave		

XII: POLICY HISTORY:

Adopted August 7, 1996

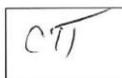
Revised November 2000

Revised July 1, 2011

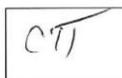
Revised July 1, 2017

Revised October 31, 2017: new parents can request intermittent leave

Revised November 20, 2018: how to request leave for a qualifying domestic partner.



This policy replaces 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 this policy 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.



	Town of Chapel Hill, NC	Appendix to PP 2-8 FMLA policy	I. POLICY XIV. PURPOSE XV. PROCEDURE XVI. FORMS/INSTRUCTIONS XVII. ADDITIONAL CONTACTS XVIII. DEFINITIONS XIX. RESPONSIBILITIES XX. APPENDICES XXI. FAQ XXII. SCOPE XXIII. RELATED INFORMATION XXIV. POLICY HISTORY	Approved By:  Cliff Turner, Director Human Resource Development
	Families first Coronavirus Response Act Procedures	Issue Date: April 1, 2020		

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.

IMPORTANT NOTICE: As of August 10, 2020, employees may use their own personal leave to supplement

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.

4. ***IMPORTANT NOTICE: As of August 10, 2020, employees may use any accrued personal leave time to supplement any leave taken at 2/3 pay up to the total amount of their base pay. This provision is not retroactive.***

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>.

Amended August 10, 2020 to allow employees to use personal leave to supplement the 2/3 pay provision.

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): _____

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.

