



**TITLE: Families First Coronavirus Act Emergency  
Paid Sick Leave**

**PROCEDURE NUMBER: A-21**

**EFFECTIVE DATE: April 1, 2020**

**PAGES: 7**

**REVISED DATES:**

**APPROVED:**

*Laurel Revetti*

## **PURPOSE**

This administrative procedure establishes and defines the temporary provisions related to additional employee emergency paid sick leave resulting from the recent enactment of the federal Families First Coronavirus Act (FFCRA) that became effective on April 1, 2020.

## **SCOPE**

This procedure applies to eligible employees defined as full-time, part-time, temporary/seasonal, and retired annuitants except for employees identified in section 7A.

The effective date of this procedure is April 1, 2020 and will expire on December 31, 2020 or when the Emergency Paid Sick Leave Act is no longer effective.

## **GENERAL PROVISIONS**

### **1. Purposes for Sick Leave**

Eligible employees can use Emergency Paid Sick Leave for one of the six qualifying reasons described below under subsections (A) and (B):

- A. Eligible employees are entitled to up to 80 hours of Emergency Paid Sick Leave at their full regular rate of pay, subject to maximum dollar amounts as provided under the FFCRA if they are unable to work or telework for any of the following reasons:
  - The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19. An employee who lives with an individual who is among one or more of those categories of individuals advised to shelter in

place, stay at home, isolate or quarantine will *not* qualify for Emergency Paid Sick Leave based on that reason under this subsection. However, such an employee may qualify for Emergency Paid Sick Leave pursuant to the qualifying reason provided for in subsection (B) below.

- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.

B. Eligible employees are entitled to up to 80 hours of Emergency Paid Sick Leave at two-thirds (2/3) of the employee's regular rate of pay, subject to maximum dollar amounts as provided under the FFCRA, if they are unable to work or telework because:

- The employee is caring for an "individual," who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 as described in subsections of (A) above.
- The employee is caring for a child of such employee 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. "child" and "childcare provider" are defined in Section 2 below.
- 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.

## 2. Definitions

A. "Emergency responder" means the following for the purposes of employees who may be exempted from Emergency Paid Sick Leave:

- Anyone who serves in the military or national guard, or as a law enforcement officer, correctional institution personnel, fire fighter, emergency medical services personnel, physician, nurse, public health personnel, emergency medical technician, paramedic, emergency management personnel, 911 operator, child welfare worker and service provider, 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.

- B. "Childcare Provider" means a provider who receives compensation for providing childcare services on a regular basis. The term includes a center-based childcare provider, a group home childcare provider, a family childcare provider, or other provider of childcare services for compensation that is licensed, regulated, or registered under State law; and satisfies the State and local requirements. However, under the FFCRA, the eligible childcare provider need not be compensated or licensed if he or she is a family member or friend, such as a neighbor, who regularly cares for the Employee's child.
- C. "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 under 18 years of age; or 18 years of age or older who is incapable of self-care because of a mental or physical disability.
- D. "Subject to a Quarantine or Isolation Order" means a quarantine or isolation order that 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 the Town 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 people (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 the Town has work for them.
- E. "Individual" means an employee's immediate family member, a person who regularly resides in the employee's home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she were quarantined or self-quarantined. "Individual" does not include persons with whom the employee has no personal relationship.

### 3. Amount of Leave

Leave taken as Emergency Paid Sick Leave is in addition to any other statutory or contractual leave to which the employee is entitled. Unused Emergency Paid Sick Leave does not carryover for any employee.

A. Full time employees

Full time employees working 40 hours per week may take up to 80 hours of Emergency Paid Sick Leave.

B. Part time employees

Part time employees may take up to the number of hours that they work on average over a two-week period as determined by reviewing the six-month period prior to the usage of leave. If the employee has not worked for the Town of Los Gatos for six months, the Town will calculate the leave entitlement based on the period during which the employee has been employed.

4. Caps on the Amount of Pay Provided for Emergency Paid Sick Leave

Emergency Paid Sick Leave is subject to the following caps:

A. \$511 per day and \$5,110 in the aggregate for any of the following qualifying reasons:

- The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.

B. \$200 per day and \$2,000 in the aggregate for any of the following qualifying reasons:

- The employee is caring for an individual who is subject to an order or has been advised to self-quarantine as described in Section 1(B) of the preceding subsection.
- The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.
- 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.

5. Supplementing Pay for an Employee on Emergency Paid Sick Leave with Use of Earned or Accrued Leaves

- A. Employees may supplement the compensation they receive if taking leave under Emergency Paid Sick Leave (paid up to the specified limitations under the FFCRA) with their earned or accrued leaves in order to achieve 100% of the pay the employee would normally receive in a given week for working their regularly scheduled hours.

6. Intermittent Leave

- A. An employee may take intermittent leave as follows:

- An employee who is teleworking may take Emergency Paid Sick Leave intermittently for any qualifying reason;
- An employee who is still working at the Town's worksite may take Emergency Paid Sick Leave intermittently only if that employee has requested leave to care for their child if the school or place of care of the child has been closed, or the child care provider is unavailable, due to COVID-19 precautions.

7. Exemptions

The Town will not exempt from the receipt of Emergency Paid Sick Leave any employee or class of employees who qualify as an "emergency responder".

8. Restoration to Prior Position

An employee who uses Emergency Paid Sick Leave is entitled to reinstatement to their prior position unless the position held by the employee does not exist due to economic conditions or other changes in operating conditions caused by a public health emergency during the period of leave such that the employee would not otherwise have been employed at the time of reinstatement. Emergency Paid Sick Leave is a protected leave.

9. Expiration

The provision of this section shall expire on December 31, 2020 or when the Emergency Paid Sick Leave Act is no longer effective.

10. Sick Leave Request:

- A. The Town may not require an employee to provide notice of the need to use Emergency Paid Sick Leave until after the first workday of usage of such leave. However, an employee may provide notice of the need to use Emergency Paid Sick Leave prior to the usage of such leave.
- B. After the first workday for which an employee takes Emergency Paid Sick Leave, the Town may require that the employee provide reasonable notice for the usage of such as soon as is practicable thereafter.
- C. An employee may provide notice of the need to use Emergency Paid Sick Leave orally or in writing or may provide such notice through the employee's spokesperson (e.g., spouse, adult family member, or other responsible party) if the employee is unable to provide such notice him or herself.
- D. If an employee fails to provide proper notice, the Town will provide the employee notice of the failure and provide the employee with an opportunity to provide the required documentation, described below, prior to denying the employee's request for leave.
- E. An employee using Emergency Paid Sick Leave must provide all of the following information prior to taking Emergency Paid Sick Leave:
  - Employee's name;
  - Date(s) for which leave is requested;
  - Qualifying reason for the leave; and
  - Oral or written statement that the Employee is unable to work because of the qualified reason for leave.

In addition, based on the qualifying reason for use of Emergency Paid Sick Leave, the employee is required to provide to the Town documentation in support of his/her request for Emergency Paid Sick Leave as follows:

- To take Emergency Paid Sick Leave because the employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, the employee must provide the name of the government entity that issued the Quarantine or Isolation Order.
- To take Emergency Paid Sick Leave because the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19,

the employee must provide the name of the health care provider who advised the employee to self-quarantine.

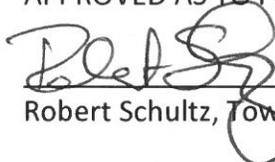
- To take Emergency Paid Sick Leave because the employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or been advised by a health care provider to self-quarantine due to concerns related to COVID-19 order, the employee must provide either:
  - i. The name of the government entity that issued the Quarantine or Isolation Order to which the individual being care for is subject; or
  - ii. The name of the health care provider who advised the individual being cared for to self-quarantine due to concerns related to COVID-19.
- To take Emergency Paid Sick Leave because the employee is caring for a child of such employee if the school or place of care of the child has been closed, or the child care provider is unavailable, due to COVID-19 precautions, the employee must provide:
  - i. The name of the child being cared for;
  - ii. The name of the School, Place of Care, or Child Care Provider that has closed or become unavailable; and
  - iii. A representation that no other suitable person will be caring for the child during the period for which the Employee takes Paid Sick Leave or Expanded Family and Medical Leave.

#### 11. Sick Leave on Separation from Employment

Emergency Paid Sick Leave is not cashed out upon termination, resignation, retirement, or other separation from employment.

An employee who is laid off or otherwise terminated on or after March 1, 2020 and who is rehired on or before December 31, 2020 will be eligible for unused Emergency Paid Sick Leave. Unused Emergency Paid Sick Leave will not be reinstated after December 31, 2020.

APPROVED AS TO FORM:

  
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Robert Schultz, Town Attorney

