



Town of West Seneca

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MEMO

To: The Honorable Town Board

From: Tina M. Hawthorne, Town Attorney

Date: January 21, 2021

Subject: Proposed Families First Coronavirus Leave Policy

The Families First Coronavirus Response Act (FFCRA) required the Town to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Act expired on December 31, 2020, and the Town is no longer required to provide employees with such paid leave. The Town is required under the New York State Paid Leave for COVID-19 to provide sick leave to employees who need to take leave because they are under a mandatory or precautionary order of quarantine or isolation due to COVID-19. Unlike the FFCRA, the New York State Paid Leave does not require paid leave for an employee who 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. The Town is able to voluntarily enact a policy providing for similar leave should the Town so chooses. The attached proposed policy addresses leave for employees in that situation.

Kindly review, discuss, and vote on the approval of the policy.



FAMILIES FIRST CORONAVIRUS LEAVE POLICY

Summary – The Town’s Families First Coronavirus Leave Policy entitles an eligible full-time Town of West Seneca employee (regularly scheduled to work at least 35 hours per week) to 12 weeks of leave at two-thirds the employee’s regular rate of pay where an employee 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.

The application for Families First Coronavirus Leave Policy must be filed in writing with the Human Resource Department (HR) and is subject to approval by the employee’s Department Head and the Town Board. The determination on whether to grant the leave will be based on the employee meeting the eligibility requirements and on the operational needs of the Department during the period the leave is being sought.

On a regular basis, any employee on leave pursuant to this policy will be required to provide updates about work status, including return to work date.

Eligibility

- An employee must be a full-time employee with the Town for 30 days or more at the commencement of the leave.
- All opportunities for the employee to perform their work remotely must first be exhausted by the Town.
- Up to 12 weeks of paid expanded family and medical leave at two-thirds the employee’s regular rate of pay where an employee 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. Said leave may be taken intermittently up to 12 weeks of leave during this policies term of January 1, 2021 to June 30, 2021.
- Where an employee is eligible for Families First Coronavirus Leave is also eligible for the Family and Medical Leave Act (FMLA leave) or the New York State Paid Leave for COVID-19, the leaves shall run concurrently until such time as exhausted; and
- If the employee wishes to use unpaid FFCL after the depletion of FMLA or New York State Paid Leave for COVID-19, the employee may apply for additional FFCL. The total combined amount of any such leave may not exceed 12 weeks; and
- Approval of the FFCL is at the discretion of the employee’s Department Head and the Town Board based on the needs of the Department during the period the leave is being sought. In some cases, the Department may not be able to accommodate an extended leave of absence for FFCL; and
- Per FMLA, the Town will pay out an employee’s accruals during any period of leave covered by FMLA. Likewise, while on FFCL employees will be required to exhaust all available paid leave accruals before taking paid leave; and



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- An employee on FFCL shall continue to remain eligible for medical insurance coverage under the same terms as if he/she were actively working. For additional information about health insurance benefits, see **Benefits During FFCL**.
- Any provisions about "Leaves" the Town is contractually bound by in the collective bargaining agreements shall apply.

Notification and Certification Requirements –

- **Request for Parental Leave-** Where foreseeable, the employee must apply, in writing, to the Department Head and Human Resources at least thirty calendar days prior to the commencement date of the FFCL.
- **Status Reports –** The employee must periodically update the appropriate Department Head as to the employee's status and intent to return to work.

Benefits During a Leave of Absence – For the purpose of this policy, the following will apply:

- **Use of Accrued Paid Leave Credits -** An employee taking leave under FFCL must first use all vacation, sick and personal leave credits prior to taking any paid FFCL and the use of vacation, sick and personal leave will be included in the maximum amount of leave time allotted under this policy.
- **Accrual of Paid Leave Credits –** An employee will continue to accrue vacation and sick leave and receive holiday pay during the leave.
- **Health Insurance –** During FFCL the employee will remain eligible for medical insurance coverage under the same terms as if he/she were actively working.

Return to Work – The following conditions for returning to work will apply:

- **Job Restoration –** At the conclusion of the leave of absence, the employee, provided that the employee returns to work immediately following such leave, will be restored to the position the employee held when the leave began, or an equivalent position with equivalent benefits, pay and working conditions.

Policy in Effect

- This policy is effective at 12:01 a.m. on January 1, 2021 and will expire at 11:59 p.m. on June 30, 2021.