



**Town of West Newbury
Special Meeting of the Board of Selectmen**

Tuesday, April 7, 2020 @ 5:00pm

381 Main Street, Town Office Building

www.wnewbury.org

AGENDA

RECEIVED
TOWN CLERK
WEST NEWBURY, MA
2020 APR -3 PM 4: 36

Executive Session: 4:40pm by remote participation (see below)

- ❖ MGL Ch. 30A §21(a) 3: To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares (*Union personnel matters during declared emergency*).

Open Session: 5pm by remote participation (see below)

- A. Meeting with Police Chief regarding applicability of Families First Coronavirus Response Act

Addendum to Meeting Notice regarding Remote Participation

Pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §18, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place, this meeting of the West Newbury Board of Selectmen will be conducted via remote participation to the greatest extent possible.

Specific information and the general guidelines for remote participation by members of the public and/or parties with a right and/or requirement to attend this meeting can be found on the Town of West Newbury website, at www.wnewbury.org. For this meeting, members of the public who wish to listen to the meeting may do so in the following manner:

GoToMeeting

Phone: (646) 749-3122

Access Code: 576-368-397

No in-person attendance of members of the public will be permitted, but every effort will be made to ensure that the public can adequately access the proceedings in real time, via technological means. In the event that we are unable to do so, despite best efforts, we will post on the Town of West Newbury website an audio or video recording, transcript, or other comprehensive record of proceedings as soon as practicable after the meeting.



Town of West Newbury

381 Main Street

West Newbury, Massachusetts 01985

Angus Jennings, Town Manager

978-363-1100, Ext. 111 Fax 978-363-1826

townmanager@wnewbury.org

TO: Board of Selectmen
FROM: Angus Jennings, Town Manager
DATE: April 3, 2020
RE: Applicability of Families First Act to emergency responders

A question has arisen as to whether the Town will exclude emergency responders from eligibility for Federal Family First Coronavirus Response Act (FFCRA) leave allowances.

The Town may exclude first responders (see McCarron email dated April 2nd, attached), but the legislation does not specify who has authority to make this decision. I believe that this would be the Police Chief's decision under the Strong Chief Act, but because whichever decision he may make would have either budgetary and/or potential employee morale implications, I think it is important that his decision be supported by the Board of Selectmen.

As you can see from the attached materials, many municipalities are actively grappling with the question of whether or not to exclude emergency responders; some have, some have not, and others have not made a decision.

Chief Durand is under pressure to make a decision by an employee who has asserted a right to take additional leave under the FFCRA.¹ For this reason, in consultation with Chairman Archibald, Chief Durand and Town Counsel, it was agreed that a special meeting of the Board is warranted.

Chief Durand will participate in the executive session portion of the meeting beginning on Tuesday at 4:40pm, and at 5pm (or a bit later) a decision can be announced in open session regarding whether or not emergency responders will be excluded.

¹ At this time Chief Durand only expects that one employee would take advantage of this leave provision, if allowed to do so. However, from a financial standpoint, if this is allowed it must be understood that the benefit would be more broadly available, and could therefore have budget impacts due both to the direct benefit and to the cost of backfilling shifts.

Town Manager

From: Michael McCarron
Sent: Thursday, April 2, 2020 2:36 PM
To: Chief Jeffrey Durand
Cc: Town Manager; Michael Dwyer
Subject: Federal Family First Coronavirus Response Act

Jeff

Please be advised that under the Federal Family First Coronavirus Response Act you can exclude first responders.

An employer of an employee who is an emergency responder may elect to exclude such employees from the FFCRA leave requirements. For these purposes, "emergency responder" is defined as:

*[A]n 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 coronavirus. 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 coronavirus.*

You can tell your officers that they are exempt from these provisions and therefore not entitled to take such leave.

Michael P. McCarron
Town Clerk
Town of West Newbury
381 Main Street
West Newbury, MA 01985
Tel 978-363-1100 ext 110

Town Manager

From: Town Manager
Sent: Thursday, March 26, 2020 10:20 AM
To: Jeff Durand (durand@westnewburysafety.org); Michael Dwyer (dwyer@westnewburysafety.org); Corinn Flaherty; dpwdirector@wnewbury.org
Cc: Michael McCarron; Town Accountant
Subject: FW: Family First Legislation
Attachments: CoronaU.S.DOLWAGEHR.DIV.FFCRA_Poster_WH1422_Non-Federal (2).pdf

As time allows, please post a hard copy of the attached notice at each of your locations – police dept, fire dept, library, dpw garage. I'll leave hard copies in each of your mailboxes at the town offices, as well. Thanks!

Angus Jennings, Town Manager
Town of West Newbury
Town Office Building
381 Main Street
West Newbury, MA 01985
(978) 363-1100 x111
townmanager@wnewbury.org

From: Michael McCarron <mmccarron@wnewbury.org>
Sent: Thursday, March 26, 2020 8:57 AM
To: Town Manager <townmanager@wnewbury.org>
Subject: Family First Legislation

The Family First Legislation requires all employers to post a notice of the extended benefits. Attached please find such notice, which we can post and put on the website

Michael P. McCarron
Town Clerk
Town of West Newbury
381 Main Street
West Newbury, MA 01985
Tel 978-363-1100 ext 110

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 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); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|

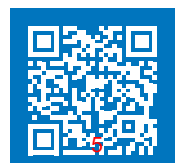
▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



FAQS FOR MUNICIPAL EMPLOYERS ON THE NOVEL CORONAVIRUS COVID-19 UPDATED - March 19, 2020

The recent outbreak of the COVID-19 virus has raised many issues for municipal employers. There are numerous personnel-related questions that arise in the event of a department, building, or government closure, and mandatory or voluntary quarantines. Because of the significant local variations in terms of employee demographics, unionized versus non-unionized staff, and locally-adopted policies, procedures and by-laws, the answers to these questions may not necessarily be the same from community to community. Additionally, President Trump recently signed the Families First Coronavirus Response Act (Families First Act), creating federally mandated paid leave for many employees. The Act will take effect no later than April 2, 2020, which is 15 days following its March 18th enactment. While the statutory language is less than clear, this appears to mean that employers have until April 2nd, but no later, to implement the relevant provisions.

In light of the adoption of the Families First Act, we have updated our previously-issued employment-related “Frequently Asked Questions (FAQ)” and responses, reflecting impacts made by the Act. The responses to the questions outlined below are, out of necessity, general in nature and may well differ depending upon employee matters in your community and specific factual circumstances. As a result, you are encouraged to contact Town or Special Labor Counsel for specific personnel advice as to how to handle the employment impacts of governmental closures and/or quarantines.

What are the effects of the Families First Coronavirus Response Act passed by Congress on March 18, 2020?

The Families First Coronavirus Response Act (“the Act”) introduces two requirements affecting employers with fewer than 500 employees: Paid Sick Leave and Paid Family and Medical Leave. The provisions of the Act apply through December 31, 2020, but no later. Critically, the Act allows employers to exclude health care providers or “emergency responders” from these new legal entitlements.

Paid Sick Leave

Regardless of how long an employee has worked for the employer, the employer must provide 80 hours of additional Paid Sick Leave to full-time employees, and fewer hours to part-time employees based on their average hours of work, if the employee is unable to work (in person or remotely) because:

- (1) the employee is subject to a COVID-19-related quarantine or isolation order at the Federal, State, or local level;
- (2) a health care provider has advised the employee to self-quarantine due to COVID-19 concerns;
- (3) the employee is experiencing COVID-19 symptoms and seeking a diagnosis;
- (4) the employee is caring for an individual subject to the order or advice described above;
- (5) the employee is caring for a child due to COVID-19-related school closure or professional child care provider unavailability; or
- (6) the employee is experiencing other substantially similar conditions specified by the Secretary of Health and Human Services

Employees on Paid Sick Leave shall be paid at their regular rate if on leave for reasons (1)-(3), but no more than \$511 per day. If on leave for reasons (4)-(6), they shall be paid 2/3 their regular rate, no more than \$200 per day.

If one of these reasons apply, an employee must receive their leave, and the employer cannot require that they provide their own coverage. Additionally, it is unlawful for an employer to require that an employee eligible for Paid Sick Leave to use any other form of paid leave prior to using their 80-hour entitlement.

Paid "Public Health Emergency Leave under the FMLA"

Regarding Paid Family Leave, the Act amends the Family and Medical Leave Act (FMLA), establishing "Public Health Emergency Leave" as a new entitlement for leave under the FMLA, but with its own additional provisions. Note that the Act significantly changes the eligibility requirements **for this type of leave only**. Thus, to be eligible, an employee need only have worked for the employer for at least 30 calendar days. The employee is not required to have worked for at least twelve months and for 1,250 hours prior to the leave, nor is eligibility for this leave conditioned upon the employee working for an employer who employs at least 50 employees within a 75 mile radius of the employee's worksite. This new Paid Family Leave enables eligible employees to care for children during school closures or due to unavailability of their professional child care provider, as follows:

- 10 days (2 weeks) of unpaid leave, although an employee may substitute any accrued leave in order to be paid during that period. Practically speaking, in our opinion, an employer cannot preclude an employee from using Paid Sick Leave to cover this period, in a situation where they are simultaneously eligible for Paid Sick and Paid Family Leave.

-Up to 10 weeks of paid leave, which amount may be reduced for employees who have already used some of their standard FMLA allotment during the preceding year. Employees shall be paid at 2/3 their regular rate, no more than \$200 per day.

At this point, there is a question as to the employer's discretion to evaluate whether an employee is truly unable to work as a result of child-care concerns, such as where another adult in the same home is not working (for whatever reason) and therefore is available to care for the same children.

Finally, although the Act creates a tax credit for employers intended to help cover the costs of these new forms of paid leave, this tax credit **does not** apply to municipal governments as subdivisions of the Commonwealth, nor to any agencies or instrumentalities of such state or local governments.

Can an Employer require an Employee to go home if the Employee exhibits potential symptoms of COVID-19 or if the Employer has credible information that the Employee or a member of their household has been in direct contact with somebody who has been diagnosed with or is showing potential symptoms of COVID-19?

If an employee comes to work and the employer has a reasonable belief that the employee is sick because the employee is showing symptoms of COVID-19, an employer may send the employee home. The employer should use caution when making the decision, ensuring that the decision is based on a reasonable suspicion that the employee may have COVID-19, to avoid potential violations of the anti-discrimination statutes, including the American with Disabilities Act (ADA).

The same action can be taken if the employer has credible information that the employee or a member of their household has been in direct contact with somebody who has been diagnosed with or is showing potential symptoms of COVID-19. These decisions should be based upon credible, factual and confirmed information. Employees should be encouraged to self-report, which obviously could be affected by the employer's decision on how the employee will be treated while on leave. Please note that under the Families First Act, employees who are experiencing COVID-19 symptoms and are seeking a diagnosis are entitled to Paid Sick Leave, as outlined above. For more information on the symptoms associated with COVID-19, please refer to the Centers for Disease Control and Prevention (CDC) website that can be found at <https://www.cdc.gov/cornoavirus/2019> .

Does the Employer have to pay the Employee who is sent home by the Employer?

The answer depends upon the terms of the employee demographics, unionized versus non-union staff and locally-adopted policies, procedures and by-laws. The answers to this question may not necessarily be the same for each community. Please be advised that following the enactment of the Families First Act, employees have fairly broad entitlements to Paid Sick Leave. Practically speaking, it is highly likely that a situation where the employer sends the employee home in connection with the COVID-19 outbreak will result in the employee being entitled to Paid Sick Leave under this new federal law.

Prior to the adoption of the Families First Act, we had advised that, in general, an employer may do the following.

Union employees – In general, the employer should pay the employee if the employer requires the individual to go home.

Non-union/Non-exempt (hourly employee) - The employer does not have to pay the employee under the Massachusetts Wage Act for hours not worked. The employer, however, should consider the implications of requiring an employee to leave work and stay home without pay if that employee is later determined not to be diagnosed with COVID-19. Under the current circumstances, employers should do everything possible to encourage employees who are exhibiting symptoms of COVID-19 or who have been in contact with someone who has COVID-19 to stay home and out of the workplace.

Non-Union/Exempt (salary) employees – In general, an exempt employee who is sent home by the employer should continue to be paid the employee’s salary. Exempt employees must be paid their salaries even if they work only a few hours during the workweek.

This guidance remains valid, for circumstances not covered under the Families First Act (for instance, situations not related to the COVID-19 virus outbreak).

Can the Employer require an Employee to use sick leave or other accrued time off for days missed?

As a preliminary matter, under the Families First Act, employees entitled to Paid Sick Leave as outlined above, including because they are subject to a government order to quarantine or isolate, because a health care provider has advised them to self-quarantine, or because they are exhibiting symptoms and seeking a diagnosis, cannot be required to use accrued time before they use their Paid Sick Leave. Once employees have exhausted their own Paid Sick Leave, and if they are not otherwise entitled to Paid Family Leave, the following fact-specific situations arise:

Union - If the employer sends the employee home, the employer cannot require the employee to use sick leave or other accrued time off for the days missed. If the employee subsequently tests positive for COVID-19, at that time, the employer may require the employee to use accrued sick time or other accrued leave in order to be paid. If the employee does not have any accrued time remaining, the employee may consider requesting time from a sick leave bank, if applicable.

Non-Union/Non-Exempt - If the employee is not a member of a union and is a non-exempt (hourly) employee, the employer may require that the employee use sick leave or other accrued time off to be paid for days missed.

Exempt Employee - If the employee is an exempt employee, the employer should not require the employee to use sick leave or other accrued time off for days missed in order to be paid. If the employee subsequently tests positive for COVID-19, at that time, the employer may require the employee to use accrued sick time or other accrued leave.

Can the Employer require a “fitness for duty exam” and/or require an Employee to get note from health care provider?

If the employer has a reasonable belief that the employee has COVID-19, the employer may send an employee to the employer’s physician for a fitness for duty examination at the employer’s expense. If an employee tests positive for COVID-19 and is out of work as a result, an employer may require the employee to provide a note from a health care provider that the employee is fit to return to work, prior to returning to duty.

If Employee “self-quarantines,” does the Employer have to pay the employee for time not worked?

If the employee “self-quarantines” and does not come into work because the employee is experiencing COVID-19 symptoms and seeking a diagnosis, or has been advised by a health care provider to self-quarantine due to COVID-19 concerns, the employee is eligible for Paid Sick Leave under the Families First Act.

If neither two circumstances exist, the employer does not have to pay the employee who “self-quarantines,” and may require the employee to use sick leave or other accrued time in order to be paid.

Note that if an employee is subject to a local, state, or federal quarantine order, this is not a “self-quarantine” situation, *per se*. Paid Sick Leave is provided for in this situation, under the Families First Act.

Does the Family and Medical Leave Act (FMLA) apply?

It depends upon the reason for leave requested under the FMLA.

In general, an employee is not entitled to take FMLA leave to stay home in order to avoid getting sick. Prior to the Families First Act, an employee similarly was not entitled to FMLA leave to take care of a child solely due to a school closure (and not the serious illness of the child). Now, the Public Health Emergency Leave provision discussed above allows an employee to take FMLA leave to care for a child impacted by COVID-19 school or day care closures.

Moreover, an employee with COVID-19 may not have a “serious health condition” for FMLA purposes, although complications from COVID-19 may constitute a serious health condition. By definition, however, if an employee is hospitalized overnight due to COVID-19, or receiving ongoing medical treatment after a hospitalization for COVID-19, the employee has a “serious health condition” under the FLMA.

If the Employer shuts down, does it have to pay its Employees?

The answer depends again upon the terms of the employees demographics, unionized versus non-union staff and locally-adopted policies, procedures and by-laws. The answers to this question may not necessarily be the same for each community. An employer may always choose to pay its employees for not working during the closure. In general, an employer may do the following.

Union employees – In general, an employer is only required to pay employees for hours worked. However, G.L. c. 150E, § 6 requires employers to bargain with union employees over mandatory subjects of bargaining such as wages, hours and terms of conditions of employment. Employers should not make unilateral changes to these conditions and must provide adequate notice to unions so that they may bargain over issues that may arise. The employer should pay the employee who the employer requires to go home, including during a shutdown even if due to a state of emergency declared by the state or local government entity. Employers should review their respective collective bargaining agreements for any terms that already exist, which may apply during a shutdown or state of emergency. The employer would have to notify the union of the change in condition, namely, sending employees home without pay, and bargain the change.

Non-union/Non-exempt (hourly) employee - The employer does not have to pay the employee under the Massachusetts Wage Act for hours not worked. Accordingly, if the employer closes its building(s) and the non-union, non-exempt employees are not working from home during the period of the closure, the employer does not have to pay the employee. The employer should consider the implications of sending

employees home without pay. The employer may always choose to pay its employees during the closure or the employee may use accrued leave in order to be paid.

Non-Union/Exempt (salary) employees – In general, an exempt employee who is sent home because the work place is closed does not have to be paid and may be “furloughed”. However, we encourage employers to use extreme caution if that employee performs any amount of work while home, since they would need to be paid in that instance for actual work performed. As with other category of employees, the employer may always choose to pay its employees during the period of the shutdown.

Note that the Families First Act does not cover employer shutdowns, although there may be federal legislation passed in the future to address such situations.

May an Employer require Employees to work from home?

Union employees – As set forth above, G.L. c. 150E, § 6 requires employers to bargain with union employees over mandatory subjects of bargaining such as wages, hours and terms of conditions of employment. Requiring employees to work from home may be considered a change in work condition, requiring notice to the union and an opportunity to bargain.

Non-exempt employees – An employer should have a process in place for all non-exempt employees who work from home to report their hours, to ensure that the employee is not working overtime, or, if overtime hours are worked, that they are paid. Such processes may include requiring the employee to provide notification when they begin work, when they take breaks and when they are done work for the day, the same as should be done when the employee is physically at work. The employee should be required to submit timesheets for hours worked while at home.

Where the employer has converted to remote operations, the Families First Act provides that Paid Sick and Paid Family Leave shall be unavailable to employees who are able to “telework” for the reasons stated in the Act.

If an Employee is diagnosed with COVID-19 and claims it is the result of contact while at work, does the Employee have claim for workers’ compensation benefits or benefits under G.L. c. 41, § 111F?

Typically, the contraction of a contagious disease is not considered a workplace injury. However, an employee may nonetheless apply for benefits. In doing so, the employee will have to show that the employee contracted COVID-19 while at work as opposed to somewhere else in the community.

What are the restrictions on sharing identification and information on Employee who potentially has been in contact with or shown symptoms of COVID-19?

Employers should exercise caution regarding the use and disclosure of employees’ medical information, under state law, including the Public Records Law, and the federal Health Insurance Portability and Accountability Act (HIPAA), and their implementing regulations. Absent narrow exceptions to the use and disclosure of employees’ medical information, protected health information should not be disclosed.

Please be advised that HIPAA only applies to “covered entities”, including medical providers or employer sponsored group health plans. Even if, however, the employer is not considered a “covered entity” under HIPAA, it is important to limit the disclosure of employees’ private medical information. Disclosures of employees’ medical information should only be made to authorized entities during a public health emergency or with the employees’ written authorization.

Can an Employer prohibit Employees from traveling internationally and domestically?

An employer may limit or prohibit an employee from *work-related travel* both domestically and internationally. While an employer may not limit an employee’s *personal* travel, an employer may inquire about an employee’s travel, and advise the employee that if they travel to a country that CDC considers being at high risk (or take a cruise), they may be quarantined upon their return and sent home from work without pay (or be required to use paid accrued leave).

Perhaps most important, remember that this is a fluid situation and advice may change depending on circumstances.

Please feel free to contact your KP Law Labor and Employment attorney with any questions concerning labor and employment questions, and/or e-mail us at coronavirusinfo@k-plaw.com. We will be in touch with you as soon as possible.

Disclaimer: This information is provided as a service by KP Law, P.C. This information is general in nature and does not, and is not intended to, constitute legal advice. Neither the provision nor receipt of this information creates an attorney-client relationship with KP Law, P.C. Whether to take any action based upon the information contained herein should be determined only after consultation with legal counsel.

Town Manager

From: mmpa_res0urces1ist@mma.org on behalf of Marianne Fleckner <mfleckner@acton-ma.gov>
Sent: Tuesday, March 31, 2020 8:01 PM
To: 'MMPA_res0urces1ist@mma.org'
Cc: Human Resources Department
Subject: [MMHR Resource List] RESPONSES AND SAMPLE DOCUMENTS - "Families First Coronavirus Response Act - Quick Question!"
Attachments: COVID-19 Families First Coronavirus Response Act memo to eligible employees.docx; FFCRA Leave Request Form.Procedure Final.docx; COVID Leave Acceptance 1-3.doc; COVID Leave Acceptance 4 - 6.doc; COVID Leave Acceptance 5 EFMLA.doc; FFCRA_Poster_WH1422_Non-Federal.pdf; COVID-19, Municipal survey results.xlsx

Hello everyone,

Seems like last Friday was months ago!!

Attached are the results from the survey I distributed last Friday regarding the FFCRA (titled, COVID-19, Municipal survey results). In summary, most communities were still reviewing the Act to determine whether or not they were going to exclude "Health Care Providers" and/or "First Responders" as being eligible for either the Emergency Paid Leave Act or the Emergency Family Medical Leave Act. It's a tough decision and Lisa Adams responded to all of us raising important points: if the federal government decides to exempt municipalities from the payroll tax to cover the cost of paid sick leave under this new law, or if there are federal stimulus funds in the future that could be used to cover the cost of paid sick leave. Also, one of Governor Baker's executive orders included keeping child care centers open for public safety personnel, so that may make them ineligible because they have access to child care centers.

In addition, based on research from reading the FFCRA bill (H6201), summaries of the bill, referencing the federal Department of Labor website, SHRM webcasts, news articles and other media channels, attached are documents the Town of Acton created; hope they can be helpful to you! Until tomorrow, they are still in draft format.

Attachments:

COVID-19 Families First Coronavirus Response Act memo to eligible employees – This memo would go to all eligible employees. It would be sent by mail and email to all full-time and part-time permanent employees.

FFCRA Leave Request Form.Procedure Final – This is a 2-sided document that would be sent by mail and email to all full-time and part-time permanent employees. One side is the request form that employees would complete when requesting either emergency paid leave or emergency family medical leave. The other side is the instructions.

COVID-19 Leave Acceptance 1-3, COVID-19 Leave Acceptance 4-6 and COVID-19 Leave Acceptance 5 EFMLA – These are 3 sample letters that Human Resources will use when an employee has been approved for leave time through this Act.

FFCRA Poster WH1422 Non-Federal – This poster will be distributed to all municipal buildings to be posted in a conspicuous location at each location.

Marianne C. Fleckner
Director of Human Resources, SHRM-SCP

Town of Acton
472 Main Street
Acton, MA 01720
(978) 929-6613 Office
(978) 844-4647 Cell
(978) 929-6342 Fax

From: Marianne Fleckner
Sent: Friday, March 27, 2020 11:44 AM
To: MMPA_resOurces1ist@mma.org
Subject: Families First Coronavirus Response Act - Quick Question!

Hello,

Which communities are excluding either their “**health care providers**” and/or “**emergency responders**” from the *Emergency Paid Leave Act* and *Emergency Family Medical Leave Act*, which are part of the Families First Coronavirus Response Act?

Please only reply to me and I will distribute the answers.

Thank you!

Marianne C. Fleckner
Director of Human Resources, SHRM-SCP

Town of Acton
472 Main Street
Acton, MA 01720
(978) 929-6613 Office
(978) 844-4647 Cell
(978) 929-6342 Fax

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You received this message because you are subscribed to the Google Groups "MMHR Resource Listserv" group. To unsubscribe from this group and stop receiving emails from it, send an email to mmpa_resOurces1ist+unsubscribe@mma.org.

To view this discussion on the web visit

https://groups.google.com/a/mma.org/d/msgid/mmpa_resOurces1ist/636d7a82c963439f808b17d2a7e8b6ca%40CORV-MAIL-2013.town.acton.ma.us.

RESPONSES TO THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

Municipality	Contact Name	Exempting "First Responders" and/or "Health Care Providers" from Emergency Paid Leave Act? (Y/N)	If yes, define "First Responders"	Exempting "First Responders" and/or "Health Care Providers" from the Emergency Family Medical Leave Act? (Y/N)	If yes, define "First Responders" and "Health Care Providers"	Comments
Acton	Marianne Fleckner	Y	Police, Fire and Nursing	Y	Police, Fire and Nursing	may revisit the exemption of Police, Fire and Nursing with the Paid Leave Act or both
Newtown	Michelle Pizzi					not decided
Swampscott	Julie DeLillo					not decided
Westwood	Joan Murray					not decided
Worcester	Dori Vecchio					not decided, waiting for Senator Moore's legislation to go through
Mendon	Tanya Bureau					not decided
Milford	Maureen Giffin					not decided
Dedham	Lauren Bailey					not decided
Burlington	Joanne Faust	N	Police, Fire, Dispatchers	Y		not expanded to Emergency Family Medical Leave because Gov made arrangements for emergency childcare
Harvard	Marie Sobalvarro					not decided
Brockton	Sandra Knight					not decided
Westford	Pam Hicks	Y	Police, Fire	Y	Police and Fire	may consider Dispatchers as well
<i>Source: Marianne C. Fleckner, Acton Director of Human Resources, 3/31/20</i>						

Town of Acton
Families First Coronavirus Response Act Leave Request Form

To request leave on the basis of the Families First Coronavirus Response Act (FFCRA), please complete the following request form and submit to Human Resources as soon is practical.

Employee Name (print clearly): _____

Requested Leave Start Date: _____ Estimated End Date: _____

The reason for this FFCRA leave request is (select the most appropriate box):

- 1. Employee is subject to a Federal, State or local quarantine or isolation order related to COVID-19. Employee will receive up to two weeks of paid sick leave.

- 2. Employee has been advised by a health care provider to self-quarantine related to COVID-19. Employee will receive up to two weeks of paid sick leave.

- 3. Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis. Employee will receive up to two weeks of paid sick leave.

- 4. Employee is caring for an individual subject to an order described in (1) or self-quarantine as described in (2). Employee will receive up to two weeks of partially paid sick leave.

- 5. Employee is caring for his or her child under the age of 18 whose school or place of care is closed due to COVID-19 related reasons. Employee will receive up to two weeks of partially paid sick leave. *

*If checking box 5, employee is also eligible for up to an additional 10 weeks of partially paid leave. Please check this box to apply for Expanded Family and Medical Leave

- 6. Employee is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. Employee will receive up to two weeks of partially paid sick leave.

All requests for leave under the Families First Coronavirus Response Act must have supporting documentation attached.

Employee Signature: _____ Date: _____

For HR use ONLY: Date received: _____ FFCRA Leave Approval Letter Sent: _____

Town of Acton

Families First Coronavirus Response Act Leave Request Procedure

To Request Paid Leave Under the Families First Coronavirus Response Act:

1. Complete the Town of Acton Families First Coronavirus Response Act Leave Request Form
 - a. Employee must include supporting documentation such as:
 - i. A doctor's note stating that the employee is caring for someone or experiencing one of the following symptoms with relation to COVID-19:
 1. Temperature over 100.4⁰ F
 2. Cough
 3. Shortness of breath
 4. Sore throat
 5. Contact with someone who has tested positive or is under review for COVID-19
 - ii. Proof that their child's school/place of care is closed
2. After review, Human Resources will contact the employee and the Department/Division Head of the decision. If approved, the employee will sign the FFCRA Leave Acceptance form.

Please Note

- Provisions under the Families First Coronavirus Response Act apply from April 1, 2020 through December 31, 2020.
- An employee may only take up to 12 weeks total to care for their child whose school or place of care is closed due to COVID-19 related reasons during this timeframe. A child is defined as a dependent that is under the age of 18.
- If an employee is taking leave for reasons 1-4 on the request form, they may use their own sick, vacation or personal time after their two weeks of Emergency Paid Leave has been exhausted.



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
(978) 929-6613
Fax (978) 929-6342

[Employee name]
[Street address]
[City, State, Zip Code]

[Date]

Dear [Employee name]:

On [date], you notified us of your need to take a leave of absence beginning on [beginning date] until [ending date] under the Families First Coronavirus Response Act due to:

- 1. Employee is subject to a Federal, State or local quarantine or isolation order related to COVID-19.
- 2. Employee has been advised by a health care provider to self-quarantine related to COVID-19.
- 3. Employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis.

Your request for FFCRA leave [beginning date] until [ending date] has been approved. This leave is covered by the **Emergency Paid Leave Act**. You shall receive up to two weeks of paid sick leave (up to \$511 daily and \$5,110 total) that will not be deducted from your accrued sick leave balance.

The Town of Acton will continue to pay its portion of the cost of your health and life insurance while you are on this leave of absence. You must continue to pay your benefit premiums which shall be made by payroll deductions.

If you are on a leave of absence due to medical reasons related to COVID-19, you must submit a physician's statement releasing you back to work on or prior to your date of return.

If you are in agreement, please sign below and submit to Human Resources.

If you have any questions, please contact us at 978-929-6613 or hr@actonma.gov.

Sincerely,

Marianne Fleckner

Accepted by: _____
Employee Signature

Date:



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
(978) 929-6613
Fax (978) 929-6342

[Employee name]
[Street address]
[City, State, Zip Code]

[Date]

Dear [Employee name]:

On [date], you notified us of your need to take a leave of absence beginning on [beginning date] until [ending date] under the Families First Coronavirus Response Act due to:

- 4. Employee is caring for an individual 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 related to COVID-19
- 5. Employee is caring for his or her child under the age of 18 whose school or place of care is closed due to COVID-19 related reasons.
- 6. Employee is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

Your request for FFCRA leave [beginning date] until [ending date] has been approved. This leave is covered by the **Emergency Paid Leave Act**. You shall receive up to two weeks of partially paid sick leave that will not be deducted from your accrued sick leave balance. This paid sick leave will be 2/3 of your normal rate of pay up to \$200 daily and \$2,000 total.

The Town of Acton will continue to pay its portion of the cost of your health and life insurance while you are on this leave of absence. You must continue to pay your benefit premiums which shall be made by payroll deductions.

If you are in agreement, please sign below and submit to Human Resources.

If you have any questions, please contact us at 978-929-6613 or hr@actonma.gov.

Sincerely,

Marianne Fleckner

Accepted by: _____
Employee Signature

_____ Date:



TOWN OF ACTON
472 Main Street
Acton, Massachusetts, 01720
(978) 929-6613
Fax (978) 929-6342

[Employee name]
[Street address]
[City, State, Zip Code]

[Date]

Dear [Employee name]:

On [date], you requested a leave of absence beginning on [beginning date] until [ending date] under the Families First Coronavirus Response Act due to:

Employee is caring for his or her child under the age of 18 whose school or place of care is closed due to COVID-19 related reasons.

Your leave has been approved. The **Emergency Family Medical Leave Act** provides an additional 10 weeks of partially paid leave following the initial 2-week's leave covered by the Emergency Paid Leave Act. This will be paid at 2/3, up to \$200 daily and \$10,000 total.

The Town of Acton will continue to pay its portion of the cost of your health and life insurance while you are on this leave of absence. You must continue to pay your benefit premiums which shall be made by payroll deductions.

If you are in agreement, please sign below and submit to Human Resources.

If you have any questions, please contact us at 978-929-6613 or hr@actonma.gov.

Sincerely,

Marianne Fleckner

Accepted by: _____
Employee Signature

Date:

Town Manager

From: Lisa Adams <ladams@mma.org>
Sent: Friday, March 27, 2020 11:58 AM
To: Marianne Fleckner
Cc: MMPA_res0urces1ist@mma.org
Subject: Re: [EXTERNAL] [MMHR Resource List] Families First Coronavirus Response Act - Quick Question!

A caveat here: if you decide to exempt your emergency responders, you may end up leaving money on the table if the federal govt decides to exempt municipalities from the payroll tax to cover the cost of paid sick leave under the new law, or if there are federal stimulus funds in the future that could be used to cover the cost of paid sick leave. Also, one of Gov Baker's executive orders included keeping child care centers open for public safety personnel, so I would check with your counsel to find out if the fact that day care is available would make them ineligible under the expanded FMLA sections of the new law. A requirement is that employees do not have access to childcare.

I advise consulting counsel on both items.

Lisa

On Fri, Mar 27, 2020 at 11:43 AM Marianne Fleckner <mfleckner@acton-ma.gov> wrote:

Hello,

Which communities are excluding either their “**health care providers**” and/or “**emergency responders**” from the *Emergency Paid Leave Act* and *Emergency Family Medical Leave Act*, which are part of the Families First Coronavirus Response Act?

Please only reply to me and I will distribute the answers.

Thank you!

Marianne C. Fleckner

Director of Human Resources, SHRM-SCP

Town of Acton