

CITY OF ST. HELENA

RESOLUTION No. 2020-33

RESOLUTION AUTHORIZING RATIFICATION OF THE FEDERAL FAMILIES FIRST CORONAVIRUS RESPONSE ACT TEMPORARY POLICY AND DESIGNATION OF "EMERGENCY RESPONDERS" CLASSIFICATION

RECITALS

- A. On March 18, 2020, President Donald Trump signed the Families First Coronavirus Response Act ("FFCRA"), which expands the Family and Medical Leave Act (Emergency Family and Medical Leave Expansion Act), and creates a paid sick leave entitlement for certain eligible employees (Emergency Paid Sick Leave Act); and
- B. The FFCRA allows local governments to exempt "emergency responders" from the provisions of the FFCRA to allow local governments to identify those categories of employees whose continued work in their respective roles is vital and necessary for the local response to COVID-19; and
- C. On March 18, 2020, the County of Napa's Health Officer issued a shelter at home order and on March 19, 2020, the Governor issued a stay at home order for all non-essential services; and
- D. Services provided by local government are necessary to ensure the continuing operation of the government body and provide and support the health, safety, and welfare of the public and are considered "Essential Government Functions."
- E. The Order categorically exempts broad categories of local government employees from the restrictions contained therein and otherwise provides local governments with broad discretion to identify employees and contractors necessary for the performance of a local government's "Essential Governmental Functions"; and
- F. The City desires to designate "Emergency Responder" employees under the Families First Coronavirus Response Act.

RESOLUTION

Now, therefore, the City Council of the City of St. Helena resolves as follows:

1. Approves the ratification of the Families First Coronavirus Response Act temporary policy, which shall remain in effect through December 31, 2020 unless further extended or superseded; and

2. Designates the following positions in the City of St. Helena as "emergency responder" for the purposes of the application and implementation of the expanded FMLA, but allowing expanded FMLA leave to be taken on a case by case basis depending on the City's operational needs:
- a. Police Chief
 - b. Fire Chief
 - c. Public Works Director
 - d. Police Lieutenant
 - e. All Sworn Law Enforcement Officers
 - f. All Firefighter Personnel
 - g. All Dispatchers
 - h. All Public Works Field Operations and Utilities positions
 - i. All employees performing tasks as Disaster Service Workers

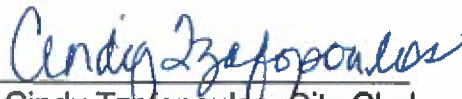
Approved at a regular meeting of the St. Helena City Council on April 14, 2020, by the following vote:

Mayor Ellsworth:	Yes
Vice Mayor Dohring:	Yes
Councilmember Koberstein:	Yes
Councilmember Chouteau:	Yes
Councilmember Knudsen:	Yes

APPROVED:


Geoff Ellsworth, Mayor

ATTEST:


Cindy Tzafopoulos, City Clerk





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Title: Families First Coronavirus Response Act (FFCRA) Temporary Policy	Policy #	P-CC-0004
	Revision #	Release
	Implementation Date	2020-04-01
	Last Update Date	
Approval by City Manager		Date Approved 2020-04-14

I. Purpose, Overview and Scope of this Policy

The purpose of this temporary policy is to comply with the Families First Coronavirus Response Act (“FFCRA”) and to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave. This policy will be in effect from April 1, 2020 until December 31, 2020. The FFCRA contained both the Emergency Family and Medical Leave Expansion Act, providing an additional reason for leave under the FMLA, and the Emergency Paid Sick Leave Act, creating a new paid leave entitlement. The existing FMLA leave policy still applies to all other reasons for leave outside of this policy, and all other applicable leave policies still apply. This policy may be updated based on additional guidance from the DOL.

II. Authority

The City Council has authority to update this policy or the City Manager with confirmation from the City Council at the next practical meeting.

III. Policy

A. Family and Medical Leave Expansion

i. Eligibility

All employees who have been employed with the City of St. Helena for at least 30 calendar days, with the exception of Emergency Responders, as defined in this policy.

Those who qualify as “emergency responders” may not be eligible for leave, depending on available staff, the City’s operational needs, and the ability to adequately cover essential services during a public health emergency crisis, which will be determined on a case by case basis. For purposes of this policy, “emergency responders” include all police department employees (sworn and non-sworn (dispatch) personnel), all firefighters, the Fire Chief, all public works field employees, the Public Works Director, and any employee performing tasks as a Disaster Service Worker at the City’s direction. However, even if an employee is not eligible for EFMLA, the City is committed to working with its entire

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workforce through creative scheduling and assignments to assist its employees in addressing the needs of their families. “Emergency responder” employees should contact Human Resources for specific requests and concerns.

ii. Qualifying Reason for Leave

Eligible employees who are unable to work (or telework) due to a need to care for a child because the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19, and there is no suitable person available to care for the child.

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, or a child who is incapable of self-care because of a mental or physical disability.

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

- a center-based childcare provider
- a group home childcare provider
- a family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
- other licensed provider of childcare services for compensation
- 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

“School” means an elementary or secondary school.

iii. Duration of Leave

Employees will have up to 12 weeks of leave to use from April 1, 2020 through December 31, 2020, for a qualifying reason for leave, stated above. Leave may be taken on an intermittent basis, on a schedule approved by the City.

This entitlement to leave is an additional qualifying reason for leave, and not an additional leave entitlement. Therefore, employees will be entitled to a total of 12 weeks in a 12-month period (as measured in the established FMLA Policy) for all qualifying reasons.



For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for the remaining 6 weeks of FMLA leave for a qualifying reason, including to care for a child under this policy.

iv. Pay During Leave

Leave will be unpaid for the first 14 calendar days of leave; however, employees may use any accrued paid vacation, sick, or other leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as further explained below. After the first 14 calendar days, leave will be paid at two-thirds (2/3) of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day, and \$10,000 in total.

Employees may, at their option, elect to use sick leave, vacation, personal leave, or other leave available to them on a pro rata basis, to supplement this pay up to full pay.

For part-time employees with varying hours to such an extent that the hours worked cannot be determined with certainty, one of two methods for computing the number of hours paid will be used:

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

v. Employee Status and Benefits During Leave

While an employee is on leave, the City will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the City will continue to make payroll deductions to collect the employee's share of the premium (if any). During any unpaid portions of leave, the employee must continue to make this payment per instructions from the HR department. These provisions are the same as for all other FMLA leave, as described in the current FMLA Policy.



vi. Employee Status After Leave

Generally, an employee who takes expanded FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms.

B. Emergency Paid Sick Leave

Emergency Paid Sick Leave, as described below will be available for use beginning April 1, 2020.

i. Eligibility

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

1. The employee is subject to a federal, state or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to either number 1 or 2 above.
5. The employee is caring for his or her child under 18 years of age if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the secretary of health and human services in consultation with the secretary of the treasury and the secretary of labor.

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, or a child who is incapable of self-care because of a mental or physical disability.



ii. Amount of Paid Sick Leave

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

For part-time employees with varying hours, to such an extent that the hours worked cannot be determined with certainty, one of two methods for computing the number of hours paid will be used:

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

iii. Rate of Pay

Paid emergency sick leave will be paid at the employee's regular rate of pay, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 above will be compensated at two-thirds their regular rate of pay.

Pay will not exceed:

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

Employees may, at their option, elect to use sick, vacation, personal, or other leave available to them on a pro rata basis, to supplement this pay up to full pay.

iv. Interaction with Other Paid Leave

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

Employees on expanded FMLA leave under this policy may use emergency paid sick leave during the first 14 days of normally unpaid FMLA leave.



v. Procedure for Requesting Emergency Paid Sick Leave

Employees must notify their department manager or HR of the need and specific reason for leave under this policy. A form will be provided to all employees for certifying the leave request. Oral notification will be accepted until practicable to provide written notice.

Once emergency paid sick leave has begun, the employee and his or her manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

Employees may be requested to provide medical certification or a medical note supporting the need for leave under appropriate circumstances but will not be required when not practicable to obtain.

vi. Carryover

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

vii. Job Protections

No employee who appropriately utilizes emergency paid sick leave under this policy will be discharged, disciplined, or discriminated against for use of leave under the policy or any request to use leave under this policy.

IV. Procedure for Requesting Leave

A. Family and Medical Leave Expansion

All employees requesting FMLA leave must provide written notice, where possible, of the need for leave to HR as soon as practicable by submitting the **Request for Family and Medical Leave Act Expansion Leave Form** (attached) and will be used by all employees for documenting the leave request. Oral notice will otherwise be accepted until written notice can be provided within a reasonably practicable time. Within five business days after the employee has provided this notice, HR will complete and provide the employee with any Department of Labor (DOL) required notices.

The notice the employee provides should include: a brief statement as to the reason for leave; the expected duration of the leave; whether leave is needed on a full-time or intermittent basis; the name of the child being cared for; the name of the school, place of care, or childcare provider that has closed or become



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unavailable; and a representation that no other suitable person is available to care for the child(ren) during the period of leave requested., and if possible, the expected duration

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

B. Emergency Paid Sick Leave

Employees must notify their department manager or HR of the need and specific reason for leave under this policy by submitting a completed **Request for Emergency Paid Sick Leave Form** attached. A form will be provided to all employees for certifying the leave request. Oral notification will be accepted until practicable to provide written notice.

Once emergency paid sick leave has begun, the employee and his or her manager must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

Employees may be requested to provide medical certification or a medical note supporting the need for leave under appropriate circumstances but will not be required when not practicable to obtain.



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Request for Family and Medical Leave Act Expansion Leave Form

To be completed by the employee requesting FMLA Expansion Leave

Employee Name

Application Date

Eligibility for Leave: To be eligible for Family and Medical Act Expansion Leave (“expanded FMLA Leave”), the employee must have worked for the City of St. Helena for thirty (30) days and be unable to work or telework due to the need to care for the employee’s minor child(ren) whose school or place of care has been closed (or whose childcare provider is unavailable) arising out of a public health emergency caused by COVID-19.

Requested Leave Start Date: _____ **Estimated End Date:** _____

Reason for Leave:

- () Employee is caring for the employee's minor child because the child's school or care provider is closed or unavailable due to COVID-19
- () No other suitable person is available to care for the employee’s child during the time for which leave is requested:

Name(s) of child(ren) being cared for: _____

Name of school, place of care, or childcare provider that has closed or become unavailable: _____

Duration of Leave Needed: Due to my primary childcare obligations, I need leave on the following basis (check one):

- () I need leave on a full-time basis: I am unable to work or telework any of my standard scheduled shifts due to primary childcare obligations
- () I need leave on a part-time basis: Due to my childcare obligations, I am able to work or telework some but not all of my standard scheduled shifts (please complete chart below)
- () I need leave on an intermittent basis: Due to my childcare obligations, I am able to work or telework some but not all of my standard scheduled shifts on a rotating basis (please complete chart on the following page)



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	Sun	Mon	Tues	Wed	Thurs	Fri	Sat
Available (circle one):	Yes / No	Yes / No	Yes / No	Yes / No	Yes / No	Yes / No	Yes / No
Hours Available to Work							
Indicate if availability rotates on a periodic basis							

Note: Should any of this information change during your expanded FMLA leave, you are obligated to submit an updated leave request form.

If you are not available to work your standard scheduled shifts, are you available to work an alternate schedule/hours at the worksite or via telework? () Yes or () No (If you indicated YES, HR or a supervisor will contact you to discuss potential ability to continue work.)

Pay Status: Eligible employees receive 2/3 of their regular rate of pay after the first two weeks of expanded FMLA leave, up to the cap as provided in the Policy. Regarding usage of other available forms of paid leave during expanded FMLA leave, please complete the following:

- () During the first two weeks of expanded FMLA leave, I wish to use all available hours of Emergency Paid Sick Leave (EPSL) (which will be paid at the 2/3 rate);
- () During the first two weeks of expanded FMLA leave, I wish to supplement my 2/3 ESPL pay with any available paid leave (sick leave, vacation, personal, or other leave). (A pro-rata amount of leave will be applied to equal 100% of an employee's pay.)
- () After the first two weeks of expanded FMLA leave, I wish to supplement my 2/3 pay with any available paid leave (sick leave, vacation, personal, or other leave). (A pro-rata amount of leave will be applied to equal 100% of employee's pay.)
- () After the first two weeks of expanded FMLA leave, I wish to supplement my pay with only the following forms of available paid leave: () sick leave () vacation () compensatory time off, () personal holiday () other: _____. (A pro-rata amount of leave will be applied to equal 100% of employee's pay.)



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If you do not check any of the above, your expanded FMLA leave will not be supplemented, and the first two weeks will be unpaid, and you will receive pay at the 2/3 rate (up to the cap) for the remainder of the leave.

During my leave, I can be reached at:
(include phone number and email)

Phone: _____ **Email:** _____

Employee Certification:

By submitting this request for expanded FMLA leave, I certify that: all information provided in this request form is true and accurate and that I am eligible for paid leave for the reasons stated; I will update my supervisor and Human Resources if my availability for work changes or if my ability to work or telework changes; I understand I am obligated to return to work (either on a part-time or full-time basis) if my childcare obligations cease or reduce; I represent that no other suitable person is available to care for my child(ren) during the period for which I am taking expanded FMLA leave.

Employee's Signature

Date

Human Resources

Date



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Request for Emergency Paid Sick Leave Form

To be completed by the employee requesting Emergency Paid Sick Leave arising out of an eligible reason related to COVID-19

Employee Name

Application Date

Requested Leave Start Date: _____ **Estimated End Date:** _____

(maximum leave duration of EPSL is 80 hours for full-time employees and a pro-rata amount for part-time employees; for expanded FMLA leave arising out of childcare obligations, employees must also complete a Request for expanded FMLA Expansion leave)

Reason for leave:

() Employee is subject to a governmental quarantine or isolation order related to COVID-19

Name of government entity that issued the quarantine or isolation order: _____

() Employee has been advised by a healthcare provider to self-quarantine related to COVID-19 (certification from a healthcare provider/doctor's note may be required)

Name of healthcare provider who advised the employee of self-quarantine due to concerns related to COVID-19: _____

() Employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis

Name of healthcare provider from whom care is sought: _____

() Employee is caring for an individual who is subject to governmental quarantine/isolation order or self-quarantine under medical advice related to COVID-19 (supporting documentation from a governmental authority/certification from a healthcare provider/doctor's note may be required)

Name of individual for whom the employee is providing care: _____

Nature of relationship with individual for whom the employee is providing care: _____



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Name of government entity that issued the quarantine or isolation order: _____ OR

Name of healthcare provider who advised the individual being cared for to self-quarantine due to concerns related to COVID-19: _____

- () Employee is unable to work or telework due to caring for the employee's minor child because the child's school or child-care provider is closed or unavailable due to COVID-19*

Name(s) of child(ren) being cared for:

Name of school, place of care, or childcare provider that has closed or become unavailable:

By submitting this request for EPSL for this reason, you represent that no other suitable person is available to care for the child(ren) listed above during the period for which you are taking emergency paid sick leave.

*If requested leave to care for a child(ren) because of a school or childcare provider closure extends beyond 80 hours or available ESPL, please also submit a Request for FMLA Expansion Leave.

Pay During Leave:

Your pay will be provided at your regular rate if leave is taken due to your own quarantine/isolation order or health issues (the first three reasons outlined above) (subject to the caps provided in the policy). Your pay will be provided at 2/3 rate if leave is taken to care for another individual or a child (the last three reasons outlined above) (subject to the caps provided in the policy). If you will be receiving pay at the 2/3 rate (or due to the cap you will receive less than full pay), please check the following box if you want to supplement your pay with available leave banks:

- () I wish to supplement my pay while on ESPL with only the following forms of available paid leave: () sick leave, () vacation, () compensatory time off, () personal holiday,



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() other _____ (check the forms of leave you wish to use to supplement). (A pro-rata amount of leave will be applied to equal 100% of employee's pay, provided accrued leave remains available).

If you do not check any of the above, your ESPL will not be supplemented, and you will receive pay at the 2/3 rate (up to the cap identified in the policy).

During my leave, I can be reached at: (please list telephone number and email)

Phone: _____ Email: _____

I understand that I will be required to provide timely medical or other certification as a condition of obtaining Emergency Paid Sick Leave, unless the certification cannot practicably be obtained. I understand that it is my obligation to discuss any inability to obtain the requested certification with HR.

Employee Signature/Acknowledgment:

By submitting this request for Emergency Paid Sick Leave, I certify that: all information provided in this request form is true and accurate and that I am eligible for paid leave for the reasons stated and that I am unable to work or telework as a result; I will update my supervisor and Human Resources if my availability for work changes or if my ability to work or telework changes; I understand that, if I am provided paid sick leave due to childcare obligations, I am obligated to return to work (either on a part-time or full-time basis) if my childcare obligations cease or reduce.

Employee's Signature

Date

Human Resources

Date

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



WH1422 REV 03/20