



DENMARK TECHNICAL COLLEGE

INTERIM POLICY #01 (2020)

FAMILY FIRST CORONAVIRUS RESPONSE ACT (FFCRA) – EMERGENCY FAMILY AND MEDICAL LEAVE EXPANSION (EFMLA)

Policy Title: Family First Coronavirus Response Act (FFCRA) – Emergency Family and Medical Leave Expansion (EFMLA)

Policy Type: Interim

Policy Number: INT Policy #01 (2020)

Legal Authority: Sections 59-53-20 of the 1976 Code of Laws of South Carolina, As Amended; Section 19-712 of the State Human Resources Regulations, As Amended; 29 CFR 825.100 et. seq.

State Board Policy: 8-3-103

Approval Date:

Responsible Office: Office of Human Resources

Responsible Executive: AVP for Institutional Advancement and Effectiveness and CHRO

Applies to: College Community

DISCLAIMER

PURSUANT TO SECTION 41-1-110 OF THE CODE OF LAWS OF SC, AS AMENDED, THE LANGUAGE USED IN THIS DOCUMENT DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND DENMARK TECHNICAL COLLEGE. DENMARK TECHNICAL COLLEGE RESERVES THE RIGHT TO REVISE THE CONTENT OF THIS DOCUMENT, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

POLICY STATEMENT

This policy outlines Denmark Technical College procedures for administering the Emergency Family and Medical Leave Expansion Act (EFMLA), a *temporary* expansion of the Family and Medical Leave Act (FMLA). The EFMLA is a provision of the Families First Coronavirus

Response Act (FFCRA) effective April 1, 2020, through December 31, 2020.

The leave provisions of the FFCRA are only for those employees who cannot work, including work-from-home, as a result of COVID-19. Denmark Technical College is committed to offering work-from-home opportunities to employees to the maximum extent possible and to offer the paid leave available under the FFCRA only if work-from-home opportunities have been exhausted.

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PROCEDURES

I. Eligibility for EFMLA leave

Emergency Family and Medical Leave Expansion Act (EFMLA) leave shall be granted to any employee who has been employed with the State at least thirty (30) calendar days. An employee is considered to have been employed for thirty (30) calendar days if the employee has been on payroll with the College for the thirty (30) calendar days immediately prior to the day the leave would begin. This does not necessarily mean that the employee has actually worked thirty (30) calendar days. This includes employees in non-FTE and non-leave accruing positions. Unlike the other provisions of the FMLA, there are no hours worked requirements for eligibility, and employees are not required to work the normal 12-month period for leave taken pursuant to the EFMLA. If the employee worked as a temporary, time-limited or temporary grant employee and was then transitioned to an FTE position, the total time worked in both positions should be added to determine if the 30-day timeframe has been met.

An employer may elect to exclude from taking EFMLA, a health care provider or emergency responder.

II. Reasons for granting of EFMLA leave

The EFMLA amends and expands the federal Family and Medical Leave Act (FMLA), on a temporary basis, to provide qualifying employees twelve (12) weeks of leave if the employee is unable to work, including work-from-home for the reasons identified in paragraph VI.A. and VI.B. below. Employees are limited to a combined total of twelve

(12) weeks of leave taken under the EFMLA and FMLA during a calendar year. If an employee has already taken twelve (12) workweeks of FMLA leave during the applicable 12-month period, the employee may not take additional leave under the EFMLA.

- A. Need to care for the employee's child (under 18 years of age) if the child's school or place of care is closed;
- B. The child care provider is unavailable due to a public health emergency. A public health emergency is "an emergency with respect to COVID-19 declared by a Federal, State, or local authority."

III. Definitions

- A. SCHOOL – any elementary or secondary school.
- B. PLACE OF CARE – any provider who receives compensation for providing childcare services.
- C. CHILD CARE PROVIDER – includes a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services. In addition, FFCRA does not require that a child care provider be compensated or licensed to meet the definition of child care provider if he or she is a family member or friend, such as a neighbor, who regularly cares for the employee's child.
- D. HEALTH CARE PROVIDER – anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

IV. Scheduling EFMLA Leave

In any case, where the necessity for leave under the EFMLA is foreseeable, an employee shall provide as much notice as is practicable.

V. Certification

The normal FMLA certification process is not required for leave taken under the EFMLA. Denmark Technical College may request documentation of closure of the school or childcare provider such as a printout or screenshot from a school or provider website indicating closure related to COVID-19.

VI. Use of Paid and Unpaid Leave

The first ten (10) workdays of the twelve (12) workweeks of leave provided under the EFMLA are unpaid. However, Emergency Paid Sick Leave, another provision of the FFCRA, may be requested and would provide an eligible employee two-thirds pay during the first 10 days of the EFMLA. Additionally, in accordance with standard FMLA administration, an eligible employee may elect to use accrued paid leave to run concurrently with the 10-day “unpaid” EFMLA period.

- A. After the first 10 workdays, paid leave must be provided for the remaining leave taken under the EFMLA. This includes leave taken by employees who do not currently earn leave including temporary, temporary grant and time-limited employees.
- B. Under the provisions of the EFMLA, an employee will be paid for hours the employee would have normally been scheduled to work, even if that is more than 40 hours in a week. Pay does not include a premium for overtime.
- C. The paid leave provided to eligible employees shall be calculated at two-thirds of an employee’s regular rate of pay and should be based on the number of hours the employee would otherwise be normally scheduled to work. Paid leave under the EFMLA is capped at \$200 per day and \$10,000 in the aggregate.
- D. Employees can use any accrued leave to supplement leave taken under the provisions of the EFMLA, up to their regular rate of pay.
- E. Paid leave under the EFMLA does not carry over from year to year and leave must be used April 1 – December 31, 2020.

VII. Intermittent EFMLA Leave and Reduced Schedule

EFMLA leave may be taken on an intermittent basis.

VIII. Maintenance of Insurance Benefits

Denmark Technical College will maintain group health insurance coverage for an employee on EFMLA leave whenever such insurance was provided before the leave was taken and on the same terms as if the employee had continued to work. The employee is responsible for the employee portion of the insurance premiums.

While on EFMLA, the employee’s portion of the insurance premiums will continue to be deducted from the pay due to the employee.

Denmark Technical College is obligated to maintain group insurance benefits under

FMLA leave. However, when the employee makes notification of his/her intent not to return to work, the employee is responsible for the full insurance premium.

IX. EFMLA Leave Record

A leave record shall be maintained by the College's Office of Human Resources for each employee covered under the provisions of the EFMLA.

Such record shall:

- A. Reflect the maximum EFMLA leave allowance (12 week/450 hours in a calendar year) and charges in terms of hours.
- B. Indicate the sum of EFMLA and FMLA leave hours used in the current calendar year.
- C. Indicate the number of hours in the employee's official workweek.
- F. Other information as determined by the Office of Human Resources.

X. Reinstatement from EFMLA Leave

On return from EFMLA leave, an employee is entitled to be returned to the same position the employee held when the EFMLA leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. That position must involve the same or substantially similar duties and responsibilities, which must entail equivalent skill, effort, responsibility, and authority.

XI. Transfer of FMLA Leave

For eligible employees who transfer from one state agency to another, the transferring agency is responsible for transferring the employee's leave records to the receiving agency, including the amount of EFMLA the employee has exhausted in the current calendar year.

CONTACT(S)

The President officially interprets this policy and is responsible for matters pertaining to this policy as it relates to Denmark Technical College.

PUBLICATION

The policy will be widely distributed to the College community. To ensure timely publication and distribution thereof, the AVP for Institutional Advancement and Effectiveness and CHRO will make every effort to:

- Communicate the policy in writing, electronically, or otherwise to the College community, including current and prospective students within fourteen (14) days of approval;
- Submit this policy for inclusion in the Policy Library within fourteen (14) days of approval;
- Post the policy on the College's webpage and all other related webpages, in the student handbook, and in the College catalog; and
- Educate and train all stakeholders and appropriate audiences on the policy's content as necessary.

REVIEW SCHEDULE

- Next Scheduled Review: 12/31/2020
- Approved by College President: 04/20/2020
- Revision History: None
- Supersedes: N/A

RELATED DOCUMENTS

There are no related documents associated with this policy.

FORMS

There are no forms associated with this policy.