

**EMERGENCY COVID-19 PAID SICK LEAVE AND
EMERGENCY FAMILY AND MEDICAL LEAVE
EXPANSION POLICY
New Mexico Tech
EFFECTIVE APRIL 1, 2020 - DECEMBER 31, 2020**

Last Revised: April 14, 2020
Responsible Office: Office of the President

Background

On March 11, 2020, because of the spread of the novel Coronavirus Disease 2019 (“COVID-19”), Michelle Lujan Grisham, the Governor of the State of New Mexico, declared that a Public Health Emergency exists in New Mexico under the Public Health Emergency Response Act, and invoked her authority under the All Hazards Emergency Management Act. On March 23, 2020, the Cabinet Secretary of the New Mexico Department of Health declared the COVID-19 outbreak a condition of public health importance. The Order states:

“All businesses, except those entities identified as “essential businesses”, are hereby directed to reduce the in-person workforce at each business or business location by 100%. “Essential businesses” may remain open provided they minimize their operations and staff to the greatest extent possible. Further, all essential businesses shall, to the greatest extent possible, adhere to social distancing protocol and maintain at least six-foot social distancing from other individuals, avoid person-to-person contact, and direct employees to wash their hands frequently. Further, all essential businesses shall ensure that all surfaces are cleaned routinely.”

“All public and private employers are required to comply with this Order and any instructions provided by State departments or agencies regarding COVID-19.”

The Secretary also stated, the New Mexico Department of Public Safety, the New Mexico Department of Homeland Security and Emergency Management, the Department of the Environment, and all other State departments and agencies are authorized to take all appropriate steps to ensure compliance with this Order.

The U.S. Congress and the President of the U.S. signed the **Families First Coronavirus Response Act (FFCRA or Act)**. The FFCRA requires NMT provide employees with paid sick leave (COVID-19 Leave) or expanded family and medical leave for specified reasons related to COVID-19. The U.S. Department of Labor’s Wage and Hour Division administers and enforces the new law’s paid leave requirements. These provisions will apply from the effective date through December 31, 2020.

Therefore, pursuant to the “Policy Development, Amendment and Rescindment Policy” the New Mexico Tech President is implementing an interim policy related to “Paid COVID-19 Leave and Paid Expanded Family and Medical Leave”. This interim policy is separate and apart of other leave benefits in the Employee Manual.

POLICY

COVID-19 Emergency Paid Sick Leave

Leave Allowance

The Emergency Paid Sick Leave Act (E-PSL), provisions allow for **two weeks of paid leave at their regular rate of pay** (up to 80 hours), pro-rated based on FTE and average hours worked, for personal illness or to care for loved ones who are ill.

Eligibility

New Mexico Tech faculty and staff employees meeting one or more of the following criteria:

1. Are subject to a quarantine/isolation order related to COVID-19
2. Have been advised by a health care provider to self-quarantine due to COVID-19
3. Are experiencing symptoms of COVID-19
4. Are caring for an individual subject to quarantine or isolation
5. Are caring for a child whose school or place of care is closed
6. Are experiencing any other, substantially similar situation

In instances where employees are unable to perform their assigned duties due to the type of work they perform (meaning the work cannot be performed remotely) but are assigned other duties that **can be performed remotely**, they cannot refuse a reassignment of duties in order to take COVID-19 Leave.

Employees who do not meet COVID-19 requirements or who cannot telework may use annual, personal and, if applicable, sick leave.

COVID-19 Leave use, including a determination that an employee is unable to perform their assigned duties, is subject to approval by their supervisor, then the cognizant Vice President (President for direct reports) or their designee. The Director of Human Resources or their designee may verify information provided to document the use of COVID-19 Leave.

Emergency Family and Medical Leave Expansion Act

Leave Allowance

The Emergency Family and Medical Leave Expansion Act (E-FML) provides up to 10 weeks of paid leave under FMLA, for employees who have been employed for 30 days who are caring for a son or daughter under the age of 18, whose school or place of care has closed due to COVID-19 or whose childcare provider is unavailable due to the public health emergency.

Employees approved for E-FML **are required to take annual leave concurrently with E-FML; after available annual leave is exhausted**, employees are entitled to pay at 2/3 their regular rate, up to a max of \$25 per hour, for up to a grand total of 10 weeks combined annual leave and E-FML (total of 400 hours, pro-rated by FTE and averaged hours worked).

PLEASE NOTE:

UNLIKE THE COVID-19 EMERGENCY PAID SICK LEAVE, THE ONLY ALLOWABLE CRITERIA FOR EXPANDED FAMILY MEDICAL CARE USE IS TO CARE FOR A SON OR DAUGHTER UNDER THE AGE OF 18, WHOSE SCHOOL OR PLACE OF CARE HAS CLOSED DUE TO COVID-19 OR WHOSE CHILDCARE PROVIDER IS UNAVIALABLE DUE TO THE PUBLIC HEALTH EMERGENCY.

Due to their critical need, New Mexico Tech employees performing critical campus operations and all other emergency management, public works and utilities employees are excluded from coverage under E-FML.

In instances where employees are unable to perform their assigned duties due to the type of work they perform (meaning the work cannot be performed remotely) but are assigned other duties that **can be performed remotely**, they cannot refuse a reassignment of duties in order to take COVID-19 Leave.

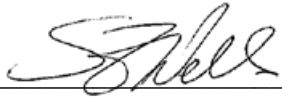
Employees who do not meet COVID-19 requirements or who cannot telework may use annual, personal and, if applicable, sick leave.

Duration of the Policy and Charging of Leave

1. COVID-19 Leave use, including a determination that an employee is unable to perform their assigned duties, is subject to approval by their supervisor, then the cognizant Vice President (President for direct reports) or their designee. The Director of Human Resources or their designee may verify information provided to document the use of COVID-19 Leave.
2. Use of COVID-19 Leave is only available to be claimed during the time period covering the COVID-19 pandemic emergency. This policy expires at the conclusion of the COVID-19 pandemic emergency, as determined by the President or provided in the FFCRA.
3. After discussing with your supervisor, employees wishing to use expanded family leave need to complete the Telework (Work-at-Home) Request Form [Telework \(Work-At-Home\) Request Form 4.14.2020.pdf](#) and submit to the Human Resources Department.
4. There is no entitlement to the COVID-19 Leave after the conclusion of the COVID-19 pandemic emergency.

5. COVID-19 Leave does not accrue and may not be rolled-over or combined into other types of leave.
6. COVID-19 Leave will be charged according to an employee's payroll distribution.
7. This Policy shall expire on December 31, 2020.

Approved by:



Dr. Stephen G. Wells, President