

**FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA  
GLOBAL CORONAVIRUS (COVID-19) PANDEMIC EMERGENCY  
TEMPORARY PUBLIC HEALTH EMERGENCY LEAVE POLICY**

**APRIL 1, 2020**

**SECTION 1. INTRODUCTION**

1.1. On March 13, 2020, the Fond du Lac Reservation Business Committee declared a state of emergency in response to the novel coronavirus (COVID-19) public health crisis. The Fond du Lac Band of Lake Superior Chippewa continues to respond to the developing situation of the COVID-19 pandemic.

1.2. This policy is enacted due to the unexpected and extraordinary circumstances caused by the COVID-19 pandemic which has created a public health emergency.

**SECTION 2. PURPOSE AND SCOPE**

2.1. This Expanded Family Leave Policy is intended to ensure the operation of the Band's critical government functions while maintaining the health and safety of its employees. It applies to all tribal government departments.

**SECTION 3. NO WAIVER OF SOVEREIGN IMMUNITY**

3.1. The Band's adoption of this Expanded Family Leave Policy is in no way intended to waive or reduce Band's status as a sovereign governmental entity, immune from suit, claims, execution, judgment, or other liability, or the immunity of Reservation Business Committee members or other Band officials, agents and employees.

**SECTION 4. DEFINITIONS**

4.1 "Eligible employee" means any employee who has been employed by the Band for at least thirty calendar days as of the effective date of this policy.

**SECTION 5. TEMPORARY PUBLIC HEALTH EMERGENCY LEAVE**

5.1. Any eligible employee may take up to 12 weeks of Public Health Emergency Leave in order to care for children due to COVID-19 related school closures, childcare closures, or lack of ability to obtain childcare due to COVID-19.

5.2 An employee requesting Public Health Emergency Leave must fill out a Sickness and Accident Leave form and have it approved by the employee's Division Director/Enterprise Manager and the Human Resources Director. In any case where the necessity for Public Health Emergency Leave is foreseeable, an employee shall notify their supervisor and request leave as soon as possible.

5.3. An eligible employee is not entitled to be paid for the first 10 days (or 2 weeks) of leave requested and approved under Section 5.1.

**5.4** An eligible employee may elect to substitute any accrued leave or Emergency Leave under the Band's COVID-19 Emergency Leave Policy enacted on April 1, 2020 for unpaid leave in Section 5.3.

**5.5** After the first 10 days of leave, an eligible employee is entitled to be paid for each day of leave approved under Section 5.1 (up to 10 weeks) in accordance with the calculation methodology in Section 5.6.

**5.6** Paid leave under section 5.4 for an eligible employee shall be calculated based on:

**5.6.1** an amount that is not less than two-thirds of the eligible employee's regular rate of pay; and

**5.6.2** the number of hours the eligible employee would otherwise normally be scheduled to work (or the number of hours calculated under Section 5.5.3)

**5.6.3** *VARYING SCHEDULE HOURS CALCULATION.*—In the case of an eligible employee whose schedule varies from week to week to such an extent that the employee's supervisor is unable to determine with certainty the number of hours the eligible employee would have worked if such employee had not taken leave under Section 5.1, the supervisor shall use the following:

**5.6.3.1** Subject to Section 5.6.4, a number equal to the average number of hours that the eligible employee was scheduled per day over the 6-month period ending on the date on which the employee takes such leave, including hours for which the employee took leave of any type; or

**5.6.3.2** If the employee did not work over a 6-month period, the reasonable expectation of the eligible employee at the time of hiring of the average number of hours per day that the eligible employee would normally be scheduled to work.

**5.6.4** In no event shall paid leave under this Section 5.5 exceed \$200 per day and \$10,000 in the aggregate.

**5.7** In any case where the necessity for leave under Section 5.1 is foreseeable, an eligible employee shall provide the employer with such notice of leave as is practicable.

**5.8** An eligible employee who is granted leave under Section 5.1 is entitled upon the employee's return to work to be reinstated to their previous position or an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

## **SECTION 6. LIMITATIONS OF POLICY**

**6.1.** This policy does not otherwise affect an eligible employee's ability to draw or use leave in accordance with the Band's Employment Handbook, except that leave taken under this policy will count as FDL-FML leave under the Band's Fond du Lac Family Medical Leave Policy.

**6.2.** This policy does not otherwise affect an eligible employee's ability to seek leave under the Band's COVID-19 Emergency Leave Policy, except under no circumstances may an eligible employee receive more than 12 weeks of combined paid leave pursuant to both policies.

## **SECTION 7. TERM AND AMENDMENT**

**7.1** This Temporary Public Health Emergency Leave Policy is effective April 1, 2020. It will remain in effect until December 31, 2020 unless it is amended, superseded, or otherwise revoked.

**7.2.** This policy is subject to revision as circumstances change.

**Approved by motion of the Reservation Business Committee on April 1, 2020.**