



**THE CITY OF NEW YORK
DEPARTMENT OF SANITATION
GENERAL ORDER 2009 - 21**

EFFECTIVE DATE: November 24, 2009

SUBJECT: GRANTING AND APPROVING EMERGENCY LEAVE
FOR UNIFORMED AND CIVILIAN EMPLOYEES.

AFFECTED DIRECTIVES: RESCINDS OPERATIONS ORDER 2008-03
Dated; February 1, 2008.
FAMILY AND MEDICAL LEAVE ACT (FMLA)
Enacted February 5, 1993 - Amended January 28, 2008
DEPARTMENT OF PERSONNEL PPP 600-94

GRANTING EMERGENCY LEAVES:

The Department realizes that an employee may not be able to report to work or may have to leave work because of an emergency. When an employee has an emergency, the employee must notify their immediate supervisor that they have an emergency and cannot report to work. The employee will be told that he or she will be carried absent until proof of the emergency is submitted and approved by the Borough Chief/Division Head. The time book will be marked in pencil, with an -A- until the Borough Chief/Division Head determines how the employee is to be carried. Failure to provide documentation satisfactory to the Department may result in disciplinary charges preferred against the employee.

Definition: Emergency - A sudden unforeseen situation that requires Immediate action.

District Superintendents and Unit Supervisors will record the circumstances and date the leave was granted or denied and what disciplinary action was taken, if warranted, in the location's Absence Control Log D.S. 1426.

It is the responsibility of the employee to submit proof of the emergency, **within Two Scheduled Work Days** after the employee returns to work, to the employee's District Superintendent or Unit Supervisor. If the submitted proof is deemed unsatisfactory, the employee shall have five additional scheduled work days from the time he or she is notified of such insufficiency to submit proof satisfactory to the Department. If the proof is based on a medical emergency, the documentation must be from a health practitioner, as defined in CFR Title 29, Chapter V, Subpart H, Section 825800, (5), licensed by the state in which he or she practices to diagnose and certify illness or disability.

CHILD CARE EMERGENCY:

For the purpose of this order, the definition of Child Care Emergency shall be:

A sudden, unforeseen situation resulting in the inadequate supervision of a dependant child of which an employee of the Department is a parent or legal guardian.

A child care emergency may or may not also qualify for coverage under the FMLA depending on the severity and circumstances of the illness.

Employees who are single parents or reside in a household in which both parents are gainfully employed or who are otherwise legally responsible for a dependant child or children including step children, may be excused for instances of Child Care Emergencies providing that the employee is able to substantiate that the employee has a dependant child or children with the submission of a valid birth certificate, legal document that verifies that the employee is a parent or legal guardian for the child or other documentation acceptable to the Department. For emergencies involving non-FMLA child care, employees are required to submit both the general emergency leave form (Form DS 1005) and the form for non-FMLA Child Care Leave (Form DS 274).

In instances involving **non - FMLA medical emergencies**, the employee must submit a signed statement describing the emergency, why the employee was required to respond, why the other parent or guardian was unavailable and such other supporting documentation as may be available. As the occasional unavailability of a care giver is reasonably anticipated, such **repeated** unavailability of the child's care giver is not acceptable as a justification for granting a request for emergency leave.

Child care leave requests that are undocumented, unsatisfactory or fraudulent, will result in a DS 249 Complaint issued to the employee. The first five complaints (DS 249) issued, within a twelve month period, for undocumented or unsatisfactory documentation, may, at the discretion of the Department, be heard at a BCAD hearing. Subsequent Complaints will be referred to the Department Advocate for adjudication.

The Family and Medical Leave Act (FMLA) provides for leave chargeable to leave balances or without pay for, among other reasons, children's serious health conditions and the treatment of those conditions. (New York City PPP 600-94 requires the use of paid leave before unpaid leave.) A serious health condition as set forth in CFR, Title 29, Chapter V, Part 825, Section 825.800, does not include the common cold, upset stomach, head ache, and routine dental problems unless complications develop. Such leave is subject to proof of responsibility for the child, such as a birth certificate and medical documentation through completion of the United States Department of Labor Form WH-380-F, which is available to employees as DS 275. When prescribed, leave pursuant to the FMLA may be for a course of treatment requiring periodic treatment or for chronic conditions that recur from time to time.