

Families First Coronavirus Response Act (FFCRA)

The Families First Coronavirus Response Act (FFCRA) 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.

There are two parts of the Families First Act:

1. FMLA Expansion; and,
2. Paid Sick Leave

This document provides a brief explanation of each part of the Families First Act. Please contact your supervisor if you feel you might qualify for this leave.

FMLA Expansion for COVID-19

The Act amends the FMLA to allow an employee who is unable to work (or telework) to take leave due to a need to care for the employee's child (under 18 years of age) if the child's elementary or secondary school or place of care has been closed, or the childcare provider is unavailable, due to a "public health emergency." The closure of the child's school or childcare is the only reason allowed under the added FMLA provisions, and the only reason allowed for paid leave under the FMLA.

Paid Sick Leave for COVID-19

The Act also adds a paid sick leave obligation. Employers that qualify must immediately make available 80 hours of paid sick leave for full-time employees (or the equivalent of the average number of hours over two weeks for part-time employees) for the following reasons:

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 healthcare 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 an order as described in number 1 above or has been advised as described in number 2 above.
5. The employee is caring for their son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of the son or daughter 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.

FMLA Expansion:

- **Who is eligible for the FMLA Public Health Emergency Leave?** Employees who have been employed for at least 30 calendar days.
- **How much FMLA Public Health Emergency Leave is an eligible employee entitled to take?** An eligible employee may take up to 12 weeks of leave.
- **Which parts of the leave are unpaid and which parts are paid?** The first 10 days of leave are unpaid unless the employee elects to use accrued paid leave. After the first 10 days, the employer must provide paid leave in an amount not less than two-thirds of the employee's regular rate of pay. There are caps on the total pay for this provision.
- **How is the amount of paid leave calculated for employees who have variable hours?** The paid leave is based on the average number of hours the employee was scheduled per day over the previous six months.

Paid Sick Leave for COVID-19:

- **Who is eligible for the Paid Sick Leave?** All employees are eligible on April 1st. It does not matter how long the individual has been employed.
- **May an Employee use Paid Emergency Sick Leave during the initial 10-day unpaid portion of the FMLA Public Health Emergency Leave?** Yes. Similarly, there is nothing in law stating an employer cannot concurrently designate absences as Paid Emergency Sick Leave and FMLA Public Health Emergency Leave absences.
- **What rate of pay applies to Paid Emergency Sick Leave?** It will depend upon the reason the leave is needed. Employees may receive their regular rate of pay or two-thirds of their regular rate of pay. There are also caps for each of these situations.
- **May an employee use available paid sick leave pursuant to a collective bargaining agreement or individual contract before using Paid Emergency Sick Leave when caring for another individual?** Yes. This may be relevant if an employee wants to take time off to care for a relative and receive his or her full rate of pay.
- **May an employer require an employee to use other paid leave before receiving Paid Emergency Sick Leave?** No. The new law says that an employee "may" use Paid Emergency Sick Leave before using other forms of leave. However, if an employee delays the use in order to use other leave first, the availability is limited by the amount of time the leave is actually needed.