



What Employers Need to Know About the Families First Coronavirus Response Act

On March 18, President Trump signed the Families First Coronavirus Response Act (FFCRA) into law to provide support for employees affected by the COVID-19 pandemic. Incorporating both the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act, the FFCRA will affect most employers. The new laws took effect on April 2, and are set to expire at the end of 2020.

The Emergency Paid Sick Leave Act (EPSLA) requires employers to provide sick leave to employees who are unable to work due to COVID-19. The EPSLA applies to private companies with 500 or fewer employees, or public agencies (as defined by the Family and Medical Leave Act) with one or more employees.

The EPSLA states that an employee is unable to work due to COVID-19 if:

- 1) The employee is forced to quarantine or isolate by federal, state, or local order
- 2) The employee has received medical advice to self-quarantine related to COVID-19
- 3) The employee has symptoms of COVID-19 and is seeking a medical diagnosis
- 4) The employee is providing care for an individual subject to quarantine order as described in (1), or self-quarantined as described in (2)
- 5) The employee has to care for a child at home due to COVID-19-related school closures
- 6) The employee is experiencing a substantially similar condition specified by the Secretary of Health and Human Services

All employees are entitled to two weeks of paid leave. Full-time employees are entitled to 80 hours of paid leave, while part-time paid leave is based on the average number of hours the employee works in a two-week period.

The rate of pay depends on the reason for the employee's leave.

Employees are entitled to receive their regular rate of pay for a leave requested due to conditions 1 – 3 listed above. Pay may not exceed \$511 per day or \$5,110 in the aggregate.

For a leave requested due to conditions 4 – 6 on the list above, employees are entitled to receive pay equal to two-thirds of their regular rate of pay. Pay may not exceed \$200 per day or \$2,000 in the aggregate.

The duration of leave for which full-time employees are eligible is 80 hours, and the duration of leave for part-time employees is equivalent to the average number of hours they work in a two-week period.

Employees caring for a child at home due to COVID-19-related school or child care provider closures are eligible for up to 12 weeks of leave without pay. Part-time employees caring for a child at home are eligible for leave amounting to the average number of hours they would work during a 12-week period.

Emergency and Family Medical Leave Expansion

Employees who have worked for the employer for at least 30 days are entitled to up to an additional ten weeks of paid expanded family and medical leave (additional ten weeks will be paid at two-thirds the employee's regular pay rate) to care for a child whose school or child care provider is closed due to COVID-19. (Employers with fewer than 50 employees may qualify for an exemption from providing this leave if doing so would "jeopardize the viability of the business as a going concern.")

This act expands Family and Medical Leave to cover employees who cannot work because they have to care for a child at home due to COVID-19-related school or child care provider closures.

It also adds pay to the entire period of leave.

Employees eligible for this leave would take two weeks of paid sick leave followed by ten weeks of paid expanded family and medical leave.

Employers with 25 or fewer employees are exempted from the requirement to restore an employee to an equivalent position if an equivalent position does not exist due to the impact of COVID-19, and no equivalent position becomes available afterward.

Important guidelines for employers

- Employers may not require employees to use their regular paid sick leave prior to requesting leave under the Emergency Paid Sick Leave Act.
- Employers must post notice of the availability of Emergency Paid Sick Leave and Emergency Family and Medical Leave Expansion options related to COVID-19.
- Employers covered by the EPSLA who have recently instituted their own *voluntary* leave policies that provide at least two weeks of supplemental leave for COVID-19 related absences should amend those policies to clearly state that they are enacted to be in compliance with the EPSLA (HR 6201). Doing so will prevent employees from attempting to claim entitlement to sick leave under both HR 6201 *and* the employer's voluntary leave policy to receive four weeks of leave.
- Employees may elect to substitute any accrued vacation, personal, medical, or sick leave for the first two weeks of partial paid leave when taking expanded family and medical leave to care for a child whose school or child care provider is closed in relation to COVID-19.
- **The FFRCA expires at the end of 2020**, and any unused leave does not carry over to subsequent years. Employees are not entitled to reimbursement for any unused leave.

Resources:

Washington State Department of Health Coronavirus news:

<https://www.doh.wa.gov/Emergencies/Coronavirus>

Center for Disease Control “What You Should Know” Coronavirus information:

<https://www.cdc.gov/coronavirus/2019-ncov/about/index.html>

Center for Disease Control Guidance for Businesses:

<https://www.cdc.gov/coronavirus/2019-ncov/specific-groups/guidance-business-response.html>

Equal Employment Opportunity Commission:

https://www.eeoc.gov/facts/pandemic_flu.html