

FACT SHEET

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

On March 18th, President Trump signed the **Families First Coronavirus Response Act (FFCRA)**. The FFCRA relief package includes two distinct provisions that provide emergency leave to employees:

- 1) Emergency Paid Sick Leave Act; and
- 2) Emergency Family and Medical Leave Expansion Act.

Effective Date: The FFCRA's paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.

Applicability: The FFCRA applies to private sector employers with fewer than 500 employees and governmental employers with one (1) or more employees. This means that all local governments – counties, municipalities, and school districts – are subject to the mandates of the FFCRA.

EMERGENCY PAID SICK LEAVE ACT

Eligibility: Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (**or unable to telework**) due to a need for leave because the employee:

1. Is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. Has been advised by a health care provider to self-quarantine related to COVID-19;
3. Is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. Is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. Is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19; or
6. Is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury. Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

Employee Leave: Generally, the Act provides that employees of covered employers are eligible for:

- Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- Two weeks (up to 80 hours) of **paid sick leave** at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and

Limits: If the employee is taking leave because the employee has COVID-19 or is self-quarantining because of a government order or on the advice of a health care provider, then the maximum pay is \$511 per day up to \$5,110 for the two weeks.

If the employee is taking care of someone else, the maximum amount is \$200 per day up to \$2,000 for the two weeks.

EMERGENCY FAMILY MEDICAL LEAVE EXPANSION ACT

EFMLEA adds a new category of leave to FMLA. This leave is for employees who have to take care of their children (including stepchildren) because the children's schools or childcare providers are closed because of the COVID-19 outbreak.

Eligibility: Any employee who has been employed for at least 30 calendar days is employed. The employee must need leave because of a "qualifying need related to a public health emergency."

A "qualifying need" means that an employee cannot work or telework because he or she needs to take care of a child whose school or childcare facility is closed (or childcare provider is unavailable) due to a federal, state, or local declared emergency related to COVID-19.

Employee Rights:

1. The first 10 days of leave are unpaid, but the employee can use sick leave, personal days, and vacation leave to be paid during this period.



2. After the first 10 days, the employer is required to provide paid leave.

Employee Leave: Up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

Employee Pay: The employee is paid not less than two-thirds of their regular pay. Regular pay is determined by taking the regular rate of pay and multiplying it by the number of hours the employee would otherwise be normally scheduled to work. If the employee's hours vary, then the number of hours is determined by:

- a. averaging the number of hours the employee was scheduled over the six-month period ending on the date the employee took leave (leave hours must be included);
OR
- b. if the employee did not work over the six-month period, the average number of hours per day would normally be scheduled to work.

Employer's Responsibility: The employer has to return the affected employee to the same or a similar position (with the same pay and benefits). If doing so is not possible due to economic changes (or conditions that affect employment or are caused by a public health emergency while the employee is on leave), then the employer is obligated to contact the employee if the same or a similar position becomes available during the 12 months after the leave ends.

Employer Posting and Notification: The law requires covered employers to post the FFCRA notice in "**conspicuous** places" on its premises. Importantly for employers with a significant portion of their workforce presently working remotely, the guidance clarifies that employers may satisfy the posting requirement for remote workers by: (1) emailing the notice to employees; (2) directly mailing the notice to employees; or (3) posting the notice on the employer's internal or external website.

If an employer is physically posting the notice in the workplace, the following guidance on how to satisfy the notice requirement in various situations is noted below:

- If employees report to a main office or headquarters each day and then go off to work at different worksite locations, the employer need only post the notice at the main office/headquarters so long as it is a conspicuous place where employees can see it.

The employer in this case would not be required to post the notice at every worksite location.

- If employees work in different locations and do not first report to a main office or headquarters each day, the notice must be posted in each work location, even if the locations are in close proximity to each other (such as multiple buildings on a shared corporate campus).
- If there is a common location in a building that all employees regularly visit (such as a lunchroom), an employer need only post the notice in that location. If that is not the case, the employer should post the notice in a break room or other readily visible location on each floor of the building.
- Employers may not satisfy the notice requirement by placing the notice in a binder, as opposed to posting it on a wall.