

OCHR FACTSHEET

Families First Coronavirus Response Act (FFCRA)

FFCRA DETAILS

This Fact Sheet:

- Provides background information about the FFCRA
- Identifies employee eligibility
- Defines qualifying COVID-19 reasons
- Specifies pay limitations
- Provides timekeeping codes and guidelines for intermittent leave.
- Lists required documentation

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Background

On March 18, 2020, the FFCRA was signed into law, which creates two new emergency paid leave requirements in response to the COVID-19 global pandemic.

- Division E of the FFCRA, 'The Emergency Paid Sick Leave Act' (EPSLA), entitles certain employees to take up to two weeks of paid sick leave.
- Division C of the FFCRA, 'The Emergency Family and Medical Leave Expansion Act' (EFMLEA), which amends Title I of the Family and Medical Leave Act, 29 U.S.C. 2601 *et seq.* (FMLA), permits certain employees to take up to twelve weeks of expanded family and medical leave, ten of which are paid, for specified reasons related to COVID-19.
- On March 27, 2020, the Coronavirus Aid, Relief, and Economic Security Act, Public Law 116-136 (CARES Act) amended certain provisions of the EPSLA and the provisions of the FMLA added by the EFMLEA.
- Implementing regulations are published in the Federal Register Vol. 85, No. 66 / Monday, April 6, 2020.

Eligibility

- All employees are eligible for up to 80 hours of emergency Paid Sick Leave under the **EPSLA** (80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period)
- Employees under Title I of the Family Medical Leave Act (FMLA) are eligible for **EFMLEA** if they have been employed for at least 30 calendar days. This applies to employees:
 - with an intermittent work schedule (i.e., non-appropriated fund flexible employees on an intermittent work schedule);
 - under a temporary appointment (i.e., an appointment with a time limitation of 1 year or less); or,
 - covered under unique statutory authorities that apply provisions of title I.
- Supervisors may exclude only those employees with "health care provider" and "emergency responder" duties as identified in 29 C.F.R 826.30(c)(1) & (2), based upon mission requirements. Other employees may be excluded only by the Director of the Office of Management and Budget.

Effective Dates

- April 1, 2020 through December 31, 2020
- Employees that used other leave as of April 1, 2020 for reasons covered by the EPSLA and/or the EFMLEA may make timecard corrections, as appropriate, with supervisory approval.

Emergency Paid Sick Leave (EPSL)

Qualifying reasons: An employee qualifies for EPSL when unable to work/telework because he or she:

- (a) Is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- (b) Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19
- (c) Is experiencing COVID-19 symptoms and seeking a medical diagnosis;
- (d) Is caring for an individual subject to a federal, state, or local quarantine or isolation order related to COVID-19, or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- (e) Is caring for his or her child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 precautions; or
- (f) Is experiencing any other substantially similar condition specified by the Dept of Health and Human Services. As of 14 April 2020, HHS has not identified such condition.

Amount of Pay: Up to 80 hours of paid sick leave at the employee's regular rate of pay (up to \$511 daily and \$5110 in the aggregate) if an employee is unable to work because of reasons (a), (b), or (c), above; or,

Up to 80 hours of paid sick leave at two-thirds the employee's regular rate of pay (up to \$200 daily and \$2,000 in the aggregate) because an employee is unable to work because of reasons in (d), (e), or (f).

Emergency Family and Medical Leave (EFML)

Qualifying reason: An employee qualifies for EFML when unable to work/telework because he or she is caring for his or her child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19.

Amount of Pay: Up to two weeks of unpaid leave (may be substituted with paid leave) and up to an additional 10 weeks of paid EFML leave at two-thirds the employee's regular rate of pay. EFMLEA leave is capped at \$200 daily and \$10,000 in the aggregate).

Any time period of EFMLA that an employee takes counts toward the 12 workweeks of FMLA leave to which the employee is entitled for any qualifying reason in a 12-month period.

Timekeeping Codes / Intermittent Leave/ Documentation

EPSL: Coded using "LV" with one of the following environmental hazard codes:

- "DX" for EPLA leave for reasons (a), (b), and (c) [paid at an employee's full rate of pay]
- "DY" for EPLA leave for reasons (d) or (e) [paid at two-thirds of an employee's full rate]

EFML: Coded using "LV" and environmental hazard code "DZ." The first 2 weeks of EFML is coded as LWOP "KA" unless the employee elects to use another form of paid leave.

Intermittent Leave: Leave may be taken intermittently with supervisor-employee agreement, with one exception: An employee reporting to the worksite may take leave intermittently only for reason (e).

Leave codes are not programmed to account for the different rates of pay, won't prevent employees from taking leave over the limits under the FFCRA, or enforce the caps on daily or aggregate pay. Thus, **a debt may be incurred and payment collected at a later date.**

Minimum Documentation: An employee is required to provide documentation containing: 1) employee name; 2) date(s) for which leave is requested; 3) qualifying reason for the leave; and 4) oral or written statement that employee is unable to work because of the qualified reason for leave.

Where to Go for More Information

- Your servicing HR specialist
- Federal Register FFCRA



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