

The Families First Coronavirus Response Act (FFCRA)



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

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Family First Coronavirus Response Act (FFCRA)

- Signed into law **March 18, 2020**
 - Emergency Paid Sick Leave Act (EPSLA)
 - Emergency Family and Medical Leave Expansion Act (EFMLEA)
- Effective **April 1, 2020**
- Expires **December 31, 2020**
- Enforced by the U.S. Department of Labor Wage and Hour Division (WHD)



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FFCRA Requirements

- Coverage/ Eligibility
- Qualifying Reasons for Leave
- Paid Sick Leave
 - Number of Weeks and Hours of Leave
 - Calculation of Pay



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FFCRA–Employer Coverage/ Eligibility

- Private Sector
 - Employers of fewer than 500 employees
 - Including not for profit employers
- Public Agencies
 - Regardless of the number of employees they employ
 - Including teachers, administrators, and other school employees



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FFCRA–Qualifying Reasons for Leave

An employee is entitled to take leave if the employee is unable to work or telework because the employee:

- Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
- Has been advised by a health care provider to self-quarantine related to COVID-19,
- Is experiencing COVID-19 symptoms and is seeking a medical diagnosis,



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FFCRA–Qualifying Reasons for Leave

(Continued)

(Continued) An employee is entitled to take leave if the employee is unable to work or telework because the employee:

- Is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine related to COVID-19,
- Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, or
- Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services



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Emergency Paid Sick Leave Act (EPSLA)

Under the FFCRA

Emergency Paid Sick Leave Act (EPSLA)

Benefit Basics:

- Six qualifying COVID-19 related reasons for job-protected leave
- During leave, continuation of health insurance
- Entitlement to paid sick leave over a 2-week period
 - Full-time employees, based on their schedule, up to 80 hours
 - Part-time employees, hours based on their schedule



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EPSLA–Employee Eligibility

- All employees who work for covered employers are eligible
- Covered employers
 - Private sector employer with fewer than 500 employees
 - Public sector employers
 - All federal employees are generally eligible for EPSLA leave; including teachers, administrators, and other school employees.



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EPSLA–Qualifying Reasons for Leave

(Reasons 1–3)

An employee is entitled to take leave under the EPSLA if the employee is unable to work or telework 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 due to concerns related to COVID-19,
- 3) Is experiencing COVID-19 symptoms and seeking a medical diagnosis,



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EPSLA–Qualifying Reasons for Leave (Reasons 4–6)

***(Continued)* An employee is entitled to take leave under the EPSLA if the employee is unable to work or telework because the employee:**

- 4) 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,
- 5) Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 precautions, or**
- 6) Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services



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EPSLA–Duration of Leave

Two-week period:

- Full-time employees may use up to 80 hours
- Part-time employees may use a number of hours equal to the number of hours they work, on average, over a 2-week period



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EPSLA–Required Rate of Pay

The applicable rate of pay is the **highest applicable wage rate**, either the:

- Employee’s regular rate of pay,
- FLSA minimum wage, or
- Highest applicable state or municipal minimum wage



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EPSLA–Paid Leave, 100% Calculation

(Reasons 1–3)

- The employee is due **100%** the required rate of pay for leave hours taken because the employee:
 - Is subject to a federal, state, or local quarantine or isolation order related to COVID-19,
 - Has been advised by a health care provider to self-quarantine related to COVID-19, or
 - Is experiencing COVID-19 symptoms and is seeking a medical diagnosis
- Total pay capped at \$511 per day or \$5,110 in total



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EPSLA–Paid Leave, Two-Thirds Calculation (Reasons 4 - 6)

- The employee is due two-thirds of the required rate of pay for leave hours taken because the employee:
 - Is caring for an individual subject to a federal, state, or local quarantine or isolation order related to COVID-19,
 - Is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons, or
 - Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.
- Total pay capped at \$200 per day or \$2,000 in total



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Emergency Family and Medical Leave Expansion Act (EFMLEA)

Under the FFCRA

Emergency Family and Medical Leave Expansion Act (EFMLEA)

Benefit Basics:

- Employee can only use EFMLEA leave to care for his or her son or daughter whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons
- Up to 12 workweeks of job-protected leave, with continuation of health insurance
- Initial 2 weeks unpaid
- Remaining 10 weeks paid at two-thirds the employee's regular rate of pay



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EFMLEA–Employee Eligibility

All employees, including full-time and part-time employees, of covered employers are eligible for EFMLEA if they have been employed by their employer **for at least 30 calendar days**.

- Reminders:
 - Private sector employers, including not for profit employers, are covered if they employ fewer than 500 employees
 - Public agencies are covered regardless of the number of employees they employ
 - Federal employee eligibility notes – employees under Title I of the FMLA are eligible under EFMLEA;



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EFMLEA–Qualifying Reason for Leave

There is only one qualifying reason for leave under the EFMLEA:

Employee leave to care for his or her child whose school or childcare provider is closed or unavailable for reasons related to COVID-19.



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EFMLEA–Unpaid and Paid Leave Periods

- Initial two weeks of EFMLEA leave is “unpaid”
 - Employee may choose to use paid sick leave under the EPSLA, or accrued paid time under their employer benefits package, at the same time as unpaid EFMLEA leave
- Up to 10 weeks paid leave available
 - Hours of leave are paid at two-thirds the employee’s regular rate of pay
 - Employer does not have to pay more than \$200 a day or \$10,000 total under EFMLEA



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EFMLEA Leave–Interaction with the FMLA

This is a new leave reason under the FMLA, *not more weeks*

- An employee who has already used 12 weeks of leave under the FMLA is not able to use EFMLEA leave



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