

FFCRA Guidance and Requirements as of 16-Apr-2020

FFCRA provisions will apply from April 1, 2020 through December 31, 2020.

Yes – FFCRA applies to all the SWCD

<https://www.federalregister.gov/d/2020-07237/p-119>

Section 826.40(c) explains which public employers must comply with the EPSLA and the EFMLEA. It uses the term “Public Agency,” which as explained in the definitions section, has the same meaning as in section 203(x) of the FLSA. Specifically, public agency means the Government of the United States; the government of a State or political subdivision of a State; or an agency of the United States (including the United States Postal Service and Postal Regulatory Commission), a State, or a political subdivision of a State; or any interstate governmental agency. All covered public agencies must comply with both the EPSLA and the EFMLEA regardless of the number of employees they employ, although such employers may exclude employees who are health care providers or emergency responders as described in § 826.30(c).

Yes – All the SWCD are subject to paying 100% of up to two weeks of wages (80-hours max) for the following reasons:

- The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- The employee has been advised by a health care provider to self-quarantine related to COVID-19.
- The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis

The 100% of the two weeks of paid sick leave wages for a full-time employee must be 100% of their regular full-time wage for a two-week period subject to two limitations: 1) limited to maximum of \$511 per day; and 2) limited to the of \$5,110 total amount for the two-week period. Full-time is subject to the employer’s designation of the regular full-time schedule (i.e.: 37.5 hours per workweek or 40-hours per work week) and the employee’s normally scheduled hours.

Eligible part-time and temporary employees paid sick leave pay should equal 100% of their normal wages for their regularly scheduled hours.

Yes – All the SWCD are subject to paying up to 2/3 of the two weeks of wages for the following reasons:

- The employee is caring for an individual subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
- The employee is caring for an individual that has been advised by a health care provider to self-quarantine related to COVID-19.
- The employee is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services.

The 2/3 of the employee’s weekly wages is prorated based on the employee’s regular hours/wages and subject to two limitations: 1) limited to a maximum of \$200 per day; and 2) limited to the of \$2,000 total amount for the two-week period. An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for the first two weeks of partial paid leave under this section.

Yes – All the SWCD are subject to paying the expanded FML pay if the employee meets the eligibility requirements:

- The employee has been employed for at least 30 calendar days immediately prior to the Covid-19 related leave request.
- The employee is unable to work because the employee is caring for their child whose: 1) school or daycare is closed due to Covid-19 related reasons; or 2) child’s care provider is unavailable due to COVID-19 related reasons.

If the employee meets these criteria then s/he is eligible for up to 10-weeks of paid leave at 2/3 of the employee’s weekly wages subject to two limitations: 1) limited to a maximum of \$200 per day; and 2) limited to the of \$12,000 total amount for the 10-week period. NOTE: The \$12,000 limit is an aggregate - if the employee received pay under the act for a 2-week period then those wages are counted towards the \$12,000/12 week maximum.

If the employee can sufficiently telework, then the employer can allow the employee to telework in lieu of the paid time-off related to FFCRA.

Link to the mandatory poster – print and hang with all the other required posters:

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf

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Paid sick time provided under this Act does not carryover from one year to the next. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

Paid sick time provided under this Act does NOT allow for intermittent use due the quarantine requirements related to Covid-19 pandemic and must be taken in full-day increments for the following:

- You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- You are experiencing symptoms of COVID-19 and are seeking a medical diagnosis;
- You are caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.
- **NOTE:** Once an employee begins taking paid sick leave for one or more of the qualified reasons, the employee must take paid sick leave each day until either 1) the full amount of paid sick leave is exhausted; or (2) the employee no has a qualified reason for the FFCRA paid sick leave. This limit is imposed because if the employee is sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave to keep the employee from spreading the virus to others.
- **NOTE:** The full-day rule does not apply to an employee who are able share childcare duties related to an eligible loss-of-child-care reason. For example, the employee cares for the child in the morning from 8-12 but is able to work in the afternoon from 1-5 because the other parent is available to provide the remainder of the childcare. Or for example, the employee provides the care for the child only on certain regularly scheduled workdays because alternate childcare is available for the other workdays. In these scenarios the employee may request, and the employer may approve, using the time FFCRA paid leave time in increments.

What are the recordkeeping requirements? The employee must provide the following documentation:

Regardless of whether you grant or deny a request for paid sick leave or expanded family and medical leave, you must document the following:

- Employee Name
- Dates of the requested leave
- Reason for the leave
- Signed statement by the employee stating they are unable to work and the reason they are unable to work
- Documentation of the healthcare provider or government entity that issued the quarantine order
- **NOTE:** If to provide care for their child, documentation must include: 1) the name of the child; 2) the name of the school, place of care, or child care provider that has closed or become unavailable due to Covid-19; and 3) a signed statement from the employee that no other suitable person is available to care for the child.

What if the employee is furloughed or the worksite is closed on/after April 1, 2020?

If an employee is furloughed, or the office is closed and the employee is not able/allowed to telework, the employee is not entitled to FFCRA paid sick leave or expanded family and medical leave. However, the employee may be eligible for unemployment insurance benefits and should contact the State unemployment insurance office for specific questions about eligibility and to apply for unemployment benefits. This also applies to reduced work hours.

POSTING and NOTIFICATION REQUIREMENTS

While this new regulation has a predefined expiration date, it still carries the standard posting and notification requirements. Please be sure to download and PDF copy of the mandatory poster. You will need to post it at the worksite (if or when its open). You are also required to provide the notification to employees. I recommend emailing to all employees and then printing a copy of the email and placing a copy in each employee's personnel file. At this time I don't think it's necessary to update personnel handbooks for just this document. But if you are still having Board Meetings, I would recommend adopting the FFCRA policy as published to be effective until December 31, 2020.

Link to the mandatory poster – print and hang with all the other required posters:

https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf