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**FAMILIES FIRST
CORONAVIRUS RELIEF ACT 2020**

March 2020

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Families First Coronavirus Relief Act (FFCRA)

Emergency Family and Medical Leave

Expansion Act

The Emergency Family and Medical Leave Expansion Act amends the current Family and Medical Leave Act (FMLA), allowing leave for eligible employees who can't work (or telework) because their minor child's school or childcare service is closed due to a COVID-19 emergency declared by a federal, state or local authority.

Note: Nothing in this legislation limits an employers ability to make decisions concerning staffing levels, including lay-offs, furloughs, reduction in hours, or reduction in pay levels (subject to Fair Labor Standards Act requirements for related to minimum wage, overtime and exemptions). Employers should consider all federal stimulus loan criteria as a part of any staffing decisions.



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FFCRA - Expanded FMLA

Effective date.

The expanded FMLA provisions take effect April 1, 2020 and expire on December 31, 2020.

Eligible Employees.

Eligible employees include employees who work for an employer with fewer than 500 employees and who have been on the payroll for at least 30 calendar days.



FFCRA - Expanded FMLA

Paid and Unpaid Leave.

- a. The first 10 days of this leave may be unpaid; however, employees may elect (shall not be required by the employer) to substitute available paid time off, such as vacation, personal or sick leave, during this leave.
- b. After the initial 10 days, employers must pay eligible employees at least two-thirds of the employees' regular rate of pay (as defined under the Fair Labor Standards Act) based on the number of hours the employees would otherwise have been scheduled to work. These paid-family-leave benefits are capped at \$200 a day (or \$10,000 total).

FFCRA - Expanded FMLA

Exceptions –excluded employees.

- a. Employees of a health care provider or an emergency responder can be excluded from these requirements by the employer.
- b. Employers with fewer than 25 employees are not obligated to reinstate employees at the end of the leave if the employee's position has been eliminated due to economic conditions or other changes in operating conditions of the employer caused by COVID-19, and the employer is unable to reinstate the employee to an equivalent position.

FFCRA - Paid Sick Leave

Emergency Paid Sick Leave Act

The Emergency Paid Sick Leave Act provides that, if employed by covered employers, employees:

- Receive up to 80 hours of paid sick leave at 100% of their pay if unable to work because the employee is quarantined, and/or experiencing COVID-19 symptoms, and seeking a medical diagnosis.
- Receive up to 80 hours of paid sick leave at 2/3 the employee's regular rate of pay if unable to work because of a need to care for a quarantined individual, to care for a child whose school is closed or child care provider is unavailable for reasons related to COVID-19, and/or the employee is experiencing substantially similar conditions as specified by the U.S. Department of HHS.
- May receive up to an additional ten weeks of expanded paid family and medical leave at 2/3 the employee's regular rate of pay if the employee is unable to work due to a need to care for a child whose school is closed, or child care provider is unavailable for reasons related to COVID-19.

FFCRA - Paid Sick Leave

Covered Employers.

Employers with fewer than 500 employees and public agencies with at least one employee.

80 Hours of paid sick leave required.

Covered employers must provide full-time employees with up to 80 hours of paid sick leave if the employees are unable to work (or telework) due to COVID-19. Part-time employees are entitled to paid sick leave based on the number of hours the employees work, on average, over a two-week period.



FFCRA - Paid Sick Leave

Qualifying reasons for paid sick leave.

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID–19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19.
3. The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to either number 1 or 2 above.

FFCRA - Paid Sick Leave

5. The employee is caring for his or her son or daughter if the school or place of care of the son or daughter has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID–19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

FFCRA - Paid Sick Leave

Rate of pay applicable to each qualifying reason.

Paid sick leave must be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above. An Employee taking leave for reasons 4-6 may be compensated at 2/3 of his or her regular rate of pay, or minimum wage, whichever is greater.

FFCRA - Paid Sick Leave

Use of available paid leave not required.

An employer may not require an employee to use other types of paid leave provided by the employer before the employee uses the paid sick time available under this law.

Effective date.

The-paid-sick leave provisions take effect April 1, 2020 and expires on December 31, 2020.



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FFCRA - Health Insurance

- A group health plan must provide coverage without any cost-sharing requirements, such as deductibles, co-payments and co-insurance, or prior authorization or other medical management requirements, for:
 - The costs of a test to detect or diagnose the virus that causes COVID-19; or
 - Health care provider visits, including telehealth visits, urgent care and emergency room visits, that result in an order for or administration of a test to detect or diagnose the virus that causes COVID-19.

FFCRA - Tax Credits

Employers receive 100% reimbursement for paid leave pursuant to the Act.

- Health insurance costs are also included in the credit.
- Employers face no payroll tax liability.
- Self-employed individuals receive an equivalent credit.

FFCRA - Tax Credits

Please consult your accountants - Pursuant to the IRS:

Under an IRS guidance to be released, eligible employers who pay qualifying sick or child care leave will be able to retain an amount of the payroll taxes equal to the amount of qualifying sick and child care leave that they paid, rather than deposit the funds with the IRS. This would include retention of federal income taxes, the employee share of Social Security and Medicare taxes, and the employer share of Social Security and Medicare taxes for all employees. If there are not sufficient payroll taxes to cover the cost of qualified sick and child care leave paid, employers will be able file a request for an accelerated payment from the IRS. The IRS expects to process these requests in two weeks or less.



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FFCRA - Tax Credits

For an employee who is **unable to work because of Coronavirus quarantine or self-quarantine or has Coronavirus symptoms and is seeking a medical diagnosis**, eligible employers may receive a refundable sick leave credit for sick leave at the employee's regular rate of pay, up to \$511 per day and \$5,110 in the aggregate, for a total of 10 days.

For an employee who is **caring for someone with Coronavirus, or is caring for a child because the child's school or child care facility is closed, or the child care provider is unavailable due to the Coronavirus**, eligible employers may claim a credit for two-thirds of the employee's regular rate of pay, up to \$200 per day and \$2,000 in the aggregate, for up to 10 days. Eligible employers are entitled to an additional tax credit determined based on costs to maintain health insurance coverage for the eligible employee during the leave period.



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FFCRA – Small Business Exemption

Small businesses with fewer than 50 employees will be eligible for an exemption from the leave requirements relating to school closings or child care unavailability where the requirements would jeopardize the ability of the business to continue.

While the Department of Labor will be issuing additional guidance, the exemption is intended to be available in in circumstances threatening the viability of a business. There is not current method of obtaining the exemption through submission of documentation. Businesses seeking this exemption should immediately document why they believe they qualify for this exemption.



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Sources

- *U.S. Dept. of Labor, March 24, 2020, “Families First Coronavirus Response Act: Questions and Answers”*
- *Internal Revenue Service, IR-2020-57, March 20, 2020, “Treasury, IRS and Labor announce plan to implement Coronavirus-related paid leave for workers and tax credits for small and midsize businesses to swiftly recover the cost of providing Coronavirus-related Leave”*
- *Society of Human Resources Management.*

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 - Occupation Safety and Health Administration**
 - National Labor Relations Board**



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