

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA) SUMMARY OF TEMPORARY FINAL REGULATIONS

SECTION 1

Emergency Paid Family and Medical Leave Act (EPFMLA):

- Cannot Work or Telework
- Up to 12 weeks of job-protected leave to Care for child due to school closure, childcare unavailable due to coronavirus

Eligible Employees:

- All employees on payroll for 30 days or more

Amount of Pay:

- After first 10 days, receive no less than 2/3 employee regular rate of pay.
- Not to exceed \$200 per day, \$10,000 in the aggregate

Reinstatement/Return to Work:

- Must reinstate to same or equivalent position
- Unless position was eliminated

SECTION 2

Emergency Paid Sick Leave Act (EPSLA):

- Cannot Work or Telework due to:
 - Quarantine, advised to self-quarantine, seek diagnosis, preventative care or diagnosis for coronavirus (*Quarantine order includes orders that advise citizens to shelter in place, stay at home, otherwise restrict their mobility*)
 - Caring for an individual who subject to quarantine or isolation order or advised to self-quarantine

Eligible Employees:

- All Employees

Amount of Hours & Pay:

- Full-time employees entitled to 80 hours (*14 days*)
- Part-Time entitled to average number of hours employee is scheduled per day over six-month period.
- Full pay, not to exceed \$511 per day, \$5,110 in the aggregate for employee Quarantine, self-quarantine, or preventative care or diagnosis
- 2/3 pay, not to exceed \$200 per day, \$2,000 in the aggregate

SECTION 3

Covered Employers:

- Private Employers with Under 500 Employees
- Public Agency Employers (*State Gov & Political Subdivision*) with 1 or more employees

Determination of Employer Size:

- Made at the time of each leave request
- May vary depending upon time of request

Employer Exemption with Under 50 Employees. Permitted if imposition would jeopardize the viability of the business if:

- Leave would result in expense and financial obligation exceeding available revenues and cause business to cease operating at minimal capacity
- Absence of employee or employees requesting leave would entail “substantial risk to financial health or operational capabilities of business due to specialized skills, knowledge, or responsibilities; or
- Not enough workers available to keep labor sufficient to operate at minimal capacity

Employer Documentation for Exemption:

- Employer must document facts and circumstances that meet criteria of “ongoing business concern”

Exceptions to Providing Leave:

- Employers of Health Care Providers
- Employers of Emergency Responders (*Includes EMT, EMTP, Dispatchers, “those individuals whose work is necessary to maintain the operation of the facility”*)

SECTION 4

Intermittent Leave:

- Mutual Agreement of Employer and Employee
- If for employee symptoms or diagnosis of COVID-19 must take all sick leave

SECTION 5

Healthcare Benefits:

- Employer must maintain all health benefits during EPFMLA and EPSLA
- Employer may make regular employee premium deductions from paid EPFMLA and EPSLA

SECTION 6

Postings:

- Covered employers must post U.S. DOL Posting: [Employee Rights Paid Sick Leave and Expanded Family and Medical Leave Under the Families First Coronavirus Response Act](#)

Employee Notice of Need for Leave:

- Employer may require employee to follow notice procedures of need for leave as soon as practicable.
- Notice may be oral, but employer must maintain documentation supporting need and eligible reason for leave.
- May not be required in advance of first workday employee takes EPFMLA or EPSLA

Emergency Paid Family & Medical Leave (EPFMLA). Employee need for leave must include:

Employee Name

- Date Leave Requested
- Type of Leave Requested
- COVID-19 Qualifying Reason
- Statement that employee is unable to work or telework
- If for caring for child whose school or childcare is closed due to COVID-19 must provide:
 - Name of child
 - Name of school or childcare that is closed
 - Representation that no other suitable person will be caring for child during period of leave.

Emergency Paid Sick Leave Act (EPSLA). Employee need for leave must include:

- Employee Name
- Date Leave Requested
- Type of Leave Requested
- COVID-19 Qualifying Reason
- Statement that employee is unable to work or telework
- If for quarantine or isolation order, name of government entity that issued order
- If for COVID-19 qualifying reason, name of health care provider who advised to self-quarantine.
- If for caring for child whose school or childcare is closed due to COVID-19 must provide:
 - Name of child
 - Name of school or childcare that is closed
 - Representation that no other suitable person will be caring for child during period of leave.

Employer must retain all documentation for a period of four (4) years following the request for leave. Documentation for:

- Approved or denied leave
- Oral statements provided by employee to support leave
- Denial due to exemption for employers of under 50 employees
- To support tax credit for any leave taken under act, including employee eligibility and amount
- To support credit for qualified health plan expenses
- Copies of completed IRS Form 7200
- Copies of completed IRS Form 941

SECTION 7

Interaction with Leave Under Traditional FMLA and Emergency Paid FMLA:

- Total of 12 Weeks of leave between both
- Employee who has already exhausted 12 weeks of traditional FMLA is not entitled to additional EPFMLA
- Amount of EPFMLA is offset by any leave previously taken in FMLA year.
- Amount of traditional FMLA is offset by any leave previously taken under EPFMLA

SECTION 8

Non-Retaliation/Non-Discrimination:

- Employers cannot retaliate or discriminate against an employee who has requested or taken leave under EPFMLA or EPSLA