

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ▶ PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$  for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at  $\frac{2}{3}$  for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ▶ ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

### ▶ QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- |   |   |
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| <ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol> | <ol style="list-style-type: none"><li>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 related reasons; or</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol> |
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### ▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://dol.gov/agencies/whd)



***DDRB Human Resource Guidance  
In Understanding the  
Families First Coronavirus Response Act  
FMLA Leave Expansion and Emergency Paid Sick Leave Provisions  
Effective April 1, 2020 through December 31, 2020***

**Purpose**

The purpose of this guidance is to provide some assistance with interpreting and understanding the Families First Coronavirus Response Act (FFCRA) and to assist employees affected by the COVID-19 outbreak with job-protected leave and emergency paid sick leave and to.

This guidance has been reviewed by the DDRB's employment attorney to ensure that it complies with the FFCRA and is a fair representation of the Act. This guidance will be in effect from April 1, 2020, until December 31, 2020. The DDRB's existing FMLA leave policy still applies to all other reasons for family and medical leave outside of this guidance.

**Expanded FMLA Leave**

**Employee Eligibility**

All employees who have been employed with the DDRB for at least 30 days.

**Reason for Leave**

Expanded FMLA will be provided to eligible employees who are unable to work (or telework) due to a need to care for their child when the school or place of care has been closed, or the regular childcare provider is unavailable due to a public health emergency with respect to COVID-19.

"Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

"Childcare provider" means a provider who receives compensation for providing childcare services on a regular basis, including:

- a center-based childcare provider
- a group home childcare provider
- a family childcare provider (one individual who provides childcare services for fewer than 24 hours per day, as the sole caregiver, and in a private residence)
- other licensed provider of childcare services for compensation
- a childcare provider that is 18 years of age or older who provides childcare services to children who are either the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, at the direction of the parent.

"School" means an elementary or secondary school.

### **Duration of Expanded FMLA Leave**

Employees will have up to 12 weeks of leave to use from April 1, 2020, through December 31, 2020, for the purpose stated above. This time is included in and not in addition to the total FMLA leave entitlement of 12 weeks in a 12-month period.

For example, if an employee has already taken 6 weeks of FMLA leave, that employee would be eligible for another 6 weeks of FMLA.

### **Pay During Expanded FMLA Leave**

Leave will be unpaid for the first 10 days of leave; however, employees may use any accrued paid vacation or sick leave during this time. The employee may also elect to use the paid leave provided under the Emergency Paid Sick Leave Act, as further explained below. After the first 10 days, leave will be paid at two-thirds of an employee's regular rate of pay for the number of hours the employee would otherwise be scheduled to work. Pay will not exceed \$200 per day, and \$12,000 in total for calendar year 2020. Any unused portion of this pay will not carry over to the next year.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

### **Employee Status and Benefits During Leave**

While an employee is on leave, the DDRB will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. During any unpaid portions of leave, the employee must continue to make this payment per instructions from the HR Director.

If the employee contributes to a voluntary benefit plan, such as life insurance or disability, the employer will continue making payroll deductions while the employee is on paid leave. During any portion of unpaid leave, the employee may request continuation of such benefits and pay his or her portion of the premiums. If the employee does not continue these payments, the employer may discontinue coverage during the leave. If the employer maintains coverage, the employer may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

### **Procedure for Requesting Leave**

All employees requesting FMLA leave under the FFCRA must provide written notice of the need for leave and documentation that the school, place of care or childcare provider is closed or unavailable to the HR Director as soon as practicable. A form will be provided to all employees on the DDRB intranet and/or in a manner accessible to all. Verbal notice will otherwise be accepted until written notice can be provided. Within five business days after the employee has provided this notice, the HR Director will complete and provide the employee with any Department of Labor (DOL) required notices, if available.

The notice the employee provides should include a brief statement as to the reason for leave, and if possible, the expected duration.

On a basis that does not discriminate against employees on FMLA leave, the DDRB may require an employee on FMLA leave to report periodically on the employee's status and intent to return to work, as with any FMLA.

### **Employee Status After Leave**

Generally, an employee who takes expanded FMLA leave will be able to return to the same position or a position with equivalent status, pay, benefits and other employment terms. The DDRB may choose to exempt certain key employees from this requirement and not return them to the same or similar position when doing so will cause substantial and grievous economic injury to business operations. Key employees will be given written notice at the time FMLA leave is requested of his or her status as a key employee.

If the position the employee held before leave started no longer exists due to economic conditions or operational changes that are made because of the public health emergency, and no equivalent position is available, the employee will not be returned to employment. However, for the period of one year after qualifying leave under the FFCRA ends, DDRB will make reasonable efforts to contact the employee if an equivalent position becomes available.

Please contact the HR Director with any questions.

## **Emergency Paid Sick Leave**

### **Eligibility**

All full- and part-time employees unable to work (or telework) due to one of the following reasons for 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.
5. The employee is caring for his or her child if the school or place of care of the child has been closed, or the childcare provider of such child 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.

“Child” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is-

(A) under 18 years of age; or

(B) 18 years of age or older and incapable of self-care because of a mental or physical disability.

### **Amount of Paid Sick Leave**

All eligible full-time employees will have up to 80 hours of paid sick leave available to use for the qualifying reasons above. Eligible part-time employees are entitled to the number of hours worked, on average, over a two-week period.

For employees with varying hours, one of two methods for computing the number of hours paid will be used:

- The average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type. Or,
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day at the time of hire.

### **Rate of Pay**

Paid emergency sick leave will be paid at the employee's regular rate of pay, or minimum wage, whichever is greater, for leave taken for reasons 1-3 above. Employees taking leave for reasons 4-6 will be compensated at two-thirds their regular rate of pay, or minimum wage, whichever is greater. Pay will not exceed:

- \$511 per day and \$5,110 for calendar year 2020 for leave taken for reasons 1-3 above;
- \$200 per day and \$2,000 for calendar year 2020 for leave taken for reasons 4-6 above.

### **Interaction with Other Paid Leave**

The employee may use emergency paid sick leave under the FFCRA before using any other accrued paid time off for the qualifying reasons stated above.

Employees on expanded FMLA leave under the FFCRA may use emergency paid sick leave during the first 10 days of normally unpaid expanded FMLA leave.

### **Procedure for Requesting Emergency Paid Sick Leave**

Employees must notify their supervisor or the HR Director of the need and specific reason for leave under the FFCRA. A form will be provided to all employees on the DDRB intranet and/or in a manner accessible to all. Verbal notification will be accepted until practicable to provide written notice.

Once emergency paid sick leave has begun, the employee and their supervisor must determine reasonable procedures for the employee to report periodically on the employee's status and intent to continue to receive paid sick time.

### **Carryover**

Paid emergency sick leave under the FFCRA will not be provided beyond December 31, 2020. Any unused paid sick leave will not carry over to the next year or be paid out to employees.

### **Job Protections**

No employee who appropriately utilizes emergency paid sick leave under the FFCRA will be discharged, disciplined or discriminated against for work time missed due to this leave.

Please contact the HR Director with any questions.

The Board of Directors and DDRB Leadership remain committed to finding innovative solutions for employees to work and receive their full pay and benefits during the time the office is closed to the public. We also want to share information with you about the Families First Coronavirus Protection Act that will be in effect from April 1 2020 through December 31, 2020.

- 1) **Expanded Family and Medical Leave:** The Act provides job protection for up to 12 weeks for employees who have worked more than 30 days for their employer and are unable to work/telework because of a bona fide need to care for a child under the age of 18 whose school or child care provider is closed or unavailable for reasons related to COVID-19. Leave under this portion of the act is part of an employee's 12-week allowance of FMLA. The first 10 days of leave under the Act are unpaid, however, an employee can choose to use their accrued sick and/or vacation time. An employee may also choose to utilize pay under the second portion of the Act, Emergency Paid Sick Leave. Expanded FMLA only pertains to leave taken between April 1, 2020 and December 31, 2020.
  
- 2) **Emergency Paid Sick Leave:** The FFCRA provides for up two weeks (up to 80 hours) of paid sick time at the employee's regular rate of pay if the employee is unable to work because the employee is quarantined, and/or experiencing COVID-19 symptoms and seeking a medical diagnosis. The Act provides for pay at 2/3rds an employee's regular rate of pay for up to two weeks (up to 80 hours) if an employee is unable to work because of a bona fide need to care for an individual in quarantine or to care for a child under 18 whose school or child care provider is closed or unavailable for reasons related to COVID-19. The Act also provides an additional 10 weeks at 2/3rds an employee's regular rate of pay if the employee is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.

A poster outlining more detail on the Act, some guidance might be helpful in interpreting the Act, and request forms are attached. If you have any questions, please contact me at [vamsinger@sbcglobal.net](mailto:vamsinger@sbcglobal.net) or 314-740-2211.

## DDRB Expanded FMLA Employee Request Form

To request leave on the basis of the Families First Coronavirus Response Act, please complete the following request form and submit, along with documentation identifying that the school or place of care is closed for reasons related to COVID-19 (or the childcare provider is unavailable due to reasons related to COVID-19) to Human Resources at least 5 days prior to leave (or as soon as is practical).

- **Employee Name (print clearly):** Click or tap here to enter text.
- **Requested Leave Start Date:** Click or tap here to enter text.
- **Estimated End Date:** Click or tap here to enter text.
- Are you able to work/telework during the above listed timeframe? Yes No
- **Time off work is expected to be (select the most appropriate box):**
  - For a continuous block of time (several continuous days, weeks or months off work).
  - On an intermittent basis (periodic time off that is not usually expected to be the same days or time off from week to week).

Additional information about employee rights and responsibilities will be provided to you in writing within five business days after receipt of this notice (unless already provided).

Additional documentation or clarification of documentation, may be required prior to making a final determination to approve or deny a leave request. Please contact Human Resources with any questions.

**Employee Signature:** Click or tap here to enter text.

**Date:**Click or tap here to enter text.

### Return to Human Resources

For HR use ONLY: Date received: \_\_\_\_\_ FMLA Eligibility Notice sent: \_\_\_\_\_

## DDRB Emergency Paid Sick Leave Employee Request Form

To request emergency paid sick leave on the basis of the Families First Coronavirus Response Act, please complete the following request form and submit, along with documentation to substantiate the need for emergency paid sick leave to Human Resources at least 5 days prior to leave (or as soon as is practical).

- **Employee Name (print clearly):** Click or tap here to enter text.
- **Requested Leave Start Date:** Click or tap here to enter text.
- **Estimated End Date:** Click or tap here to enter text.
- **Are you able to work/telework during the above listed timeframe:**  Yes  No

### Reason for 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.
5.  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.
6.  The employee is caring for his or her child if the school or place of care of the child has been closed, or the childcare provider of such child is unavailable, due to COVID-19 precautions.

Note: Emergency paid sick leave for reasons 1-5 above may only be taken in whole day increments in order to limit the spread of infection.

Additional information about employee rights and responsibilities will be provided to you in writing within five business days after receipt of this notice (unless already provided).

Determination of eligibility for emergency paid sick leave under the Families First Coronavirus Response Act, and/or additional documentation or clarification of documentation, may be required prior to making a final determination to approve or deny a leave request. Please contact Human Resources with any questions.

**Employee Signature:** Click or tap here to enter text. **Date:** Click or tap here to enter text.

### Return to Human Resources

*For HR use ONLY:* Date received: \_\_\_\_\_ FMLA Eligibility Notice sent: \_\_\_\_\_