

# Online Human Resources Manual Policy

## NUMBER Families First Coronavirus Response Act

### Policy Number

NUMBER

### Category

Leave

### Subcategory

Family Medical Leave Act / California Family Rights Act  
Sick Leave

### Owned By

#### **Division**

Personnel Management Division

#### **Program**

Personnel Services Branch

### Audience

- Employee Relations Officers
- Personnel Officers
- Personnel Transactions Supervisors

### Synopsis

This policy

- provides information on the expansion of FMLA and Sick Leave benefits due to the Families First Coronavirus Response Act (FFCRA).

### Introduction

On March 18, 2020, the federal government enacted the Families First Coronavirus Response Act (FFCRA), which enacted both the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act.

# **Statement**

## **Emergency Paid Sick Leave Act**

The Emergency Paid Sick Leave Act (EPSLA) is effective April 1, 2020. Under the EPSLA, employees are entitled to two-weeks of emergency paid sick leave for sick leave related to COVID-19. Specifically, employees can use the paid sick leave if they are:

1. Subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. Advised by a health care provider to self-quarantine related to COVID-19;
3. Experiencing COVID-19 symptoms and are seeking a medical diagnosis;
4. Caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. 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
6. Experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.

The employee's time base determines the number of paid sick leave hours the employee is entitled to receive.

- Full-time employees receive up to 80 hours of paid sick leave at the employee's regular rate of pay.
- Part-time employees with a set time base receive a prorated amount based on their time base.
- Intermittent employees' departments must:
  - Take the past six-months of work and calculate the average number of hours to determine the average daily hour entitlement; if the employee has not worked six months, then;
  - The number of hours the employer and employee agreed they would work each week upon hire.

Paid sick time for this purpose will be documented as Administrative Time Off (ATO) on the employee's timesheet. ATO over 30 calendar days for these purposes does not require approval from the Department of Human Resources, Personnel Services Branch.

Any ATO provided to employees due to COVID-19 prior to April 1, 2020, does not count toward the employee's emergency paid sick leave entitlement.

Employers may not discharge, discipline, or otherwise discriminate against any employee based upon the employee's use of emergency paid sick leave.

## **Emergency Family and Medical Leave Expansion Act**

Effective April 1, 2020, the federal government enacted the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Family and Medical Leave Expansion Act (E-FMLA).

E-FMLA requires certain employers to provide employees who have worked for the employer for 30-days with up to 12-workweeks of paid FMLA leave for specified reasons related to COVID-19. Specifically, eligible employees can take up to 12-workweeks of leave to provide care for their child whose school or daycare is closed because of COVID-19. Employees do not have to have worked for the employer for 12-months or have worked 1,250 hours in the 12-months preceding the leave to be eligible for E-FMLA.

The first two weeks of E-FMLA are unpaid, although employees can elect to use their two weeks of paid sick leave discussed above. For weeks 3 to 12 of E-FMLA, employees will be paid two-thirds of their salary, up to \$200/per day up to a total of \$10,000. Employees can elect to use leave credits to supplement their E-FMLA. The maximum daily entitlement and overall total are the same regardless of the employee's time base.

E-FMLA utilizes the same 12-week entitlement as FMLA. If an employee has used any of their 12-week entitlement under FMLA, the entitlement under E-FMLA will be reduced by the amount already used.

If leave under this program is foreseeable, an employee shall provide their employer with such notice of leave as is practicable.

Employers may not discharge, discipline, or otherwise discriminate against any employee based upon the employee's use of E-FMLA leave.

### **Supplementation**

Employees receiving pay at two-thirds may elect to use applicable available leave credits to supplement up to full pay.

### **Required Documentation for E-FMLA**

In order to take E-FMLA, employees must provide documents to support the need to care for a child whose school or place of care is closed due to COVID-19 related reasons. This may be a notice of closure or unavailability from the child's school, place of care or child care provider. The notice may include a notice that may have been posted on a government, school or day care website, published in a newspaper or email to the parent from an employee or official of the school, place of care, or child care provider.

Absent the distinctions discussed above, the FMLA and California Family Rights Act policies, which can be found in HR Manual section 2701, apply to E-FMLA.

## **Notice Requirements**

Effective April 1, 2020, departments must post the notices required by the Department of Labor. The postings can be found at: <https://www.dol.gov/agencies/whd/pandemic>.

Departments should post the notices at the worksite, distribute them electronically to all staff, as well as post them on the department's website or intranet site.

## **Expiration**

The Families First Coronavirus Response Act expires on December 31, 2020.

## **Application**

Departments must develop a mechanism to manually track all pay provided to employees under these programs. The tracking mechanism must include the employee's name, dates entitlements are used, days/hours of leave, and total amount paid to the employee.

Employees must clearly document on their timesheet in the comments section or location as defined by the department the leave which they are using. For example: when using any portion of the two weeks of EPSLA, it should be stated in the comments section along with the dates, in addition to the ATO time documented on the applicable days.

## **Authorities**

- [H.R. 6201 – 116<sup>th</sup> Congress \(2019-2020\)](#) – Families First Coronavirus Response Act

## **Resources**

### **Web Pages**

- [COVID-19 and the American Workplace](#) – Department of Labor

## **Contact Person**

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