

Families First Coronavirus Relief Act FAQs

Emergency Paid Sick Leave Act

Emergency Family and Medical Leave Act

What is the Families First Coronavirus Relief Act (FFCRA)?

- The Families First Coronavirus Response Act (FFCRA) enacted by the federal government in response to the Coronavirus pandemic (COVID-19). FFCRA enacted both the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA). FFCRA requires public employers to provide paid sick leave to employees unable to work (or unable to work remotely) for specified reasons relating to COVID-19. The Act is effective April 1, 2020 through December 31, 2020.
- Generally, **FFCRA** provides employees the following benefits under specific conditions related to COVID-19, if unable to work (or unable to work remotely):

Emergency Paid Sick Leave Act (EPSLA)

- Two weeks (up to 80 hours) of **paid sick leave** when the employee is unable to work (or telework) because the employee is quarantined or has a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order, or advice of a health care provider), experiencing COVID-19 symptoms and seeking a medical diagnosis, and/or to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19, **AND**

Emergency Family and Medical Leave Expansion Act (EFMLEA)

- Up to an additional 12 weeks of **expanded family and medical leave** by adding a new reason to qualify for Family and Medical Leave Act (FMLA), of which 10 weeks are paid and when an employee, who has been employed for at least 30 calendar days, is unable to work (or telework) due to a bona fide need for leave to care for a child whose school or childcare provider is closed or unavailable for reasons related to COVID-19.

Who is eligible to use leave under FFCRA?

- All employees are eligible for two weeks of **paid sick time** for specified reasons related to COVID-19. All employees who have been employed for at least 30 days are eligible for up to 10 weeks of **paid family leave** under FMLA to care for a child under certain circumstances related to COVID-19.
- The number of hours available for employees who work less than full-time shall be prorated according to their full-time equivalency, or the percent of the appointment or timebase (hours normally scheduled to work for non-exempt employees).

What are the Qualifying Reasons for Leave?

- An employee qualifies for **paid sick time** if the employee is unable to work (**or unable to work remotely**) due to a need for leave because the employee:
 - 1) is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
 - 2) has been advised by a health care provider to self-quarantine related to COVID-19;
 - 3) is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
 - 4) is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
 - 5) is caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19;
 - 6) and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services. If HHS does identify any such condition, the Department of Labor will issue guidance explaining what qualifies such that an employee may take **paid sick leave** on the basis of a “substantially similar condition.” (No similar conditions have been specified by the publication date of this technical letter. Campuses will be informed if this occurs.)
- Under the FFCRA, an employee qualifies for **expanded family and medical leave ONLY** if the employee is caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19.

What does it mean to be ‘unable to work, including telework’ for COVID-19 related reasons?

- An employee is unable to work (**or unable to work remotely**) due to one of the COVID-19 qualifying reasons set forth in the FFCRA that prevents the employee from being able to perform that work, either under normal circumstances at the campus or by means of telework.
- If the employee and the appropriate administrator agree that the employee will work their normal number of hours, but outside of their normally scheduled hours (for instance early in the morning or late at night), then the employee is able to work and leave is not necessary unless a COVID-19 qualifying reason prevents the employee from working that schedule.

How do I request leave under the Families First Coronavirus Relief Act (FFCRA)?

- Employees may request leave by completing a **Request for Emergency Paid Sick Leave/Emergency FML Expansion (FFCRA) form** in its entirety, and submitting to their Appropriate Administrator for acknowledgement.
- Once signed/acknowledged by the employee and Appropriate Administrator, the form should be submitted to the Benefits Office at benefits@csus.edu for approval.

How does an employee know if they can receive paid sick leave for a Federal, State, or local quarantine or isolation order related to COVID-19?

- For purposes of the FFCRA, a Federal, State, or local quarantine or isolation order includes quarantine or isolation orders, as well as shelter-in-place or stay-at-home orders, issued by any Federal, State, or local government authority that cause an employee to be unable to work (or to telework) due to COVID-19 related reasons, even though the CSU has work that could be performed.

If an employee becomes ill with COVID-19 symptoms, then decides to self-quarantine for two weeks, and then returns to work without seeking a medical diagnosis or the advice of a health care provider, can they get paid for those two weeks under the FFCRA?

- Generally, no. If an employee becomes ill with COVID-19 symptoms, they may take paid sick leave under the FFCRA only to seek a medical diagnosis or if a health care provider otherwise advises them to self-quarantine. If they test positive for the virus associated with COVID-19 or are advised by a health care provider to self-quarantine, they may continue to take paid sick leave. An employee may not take paid sick leave under the FFCRA if they unilaterally decide to self-quarantine for an illness without medical advice, even if they have COVID-19 symptoms. **Note that employees may not take paid sick leave under the FFCRA if they become ill with an illness not related to COVID-19.** Depending on the employee's condition, however, they may be able to telework during their period of quarantine.

When is an employee eligible for paid sick leave to care for someone who is subject to a quarantine or isolation order?

- An employee may take paid sick leave to care for an individual who, as a result of being subject to a quarantine or isolation order, is unable to care for him or herself and depends on the employee for care, and if providing care prevents them from working and from teleworking. An employee may not take paid sick leave to care for someone with whom they have no relationship. Nor can they take paid sick leave to care for someone who does not expect or depend on their care during his or her quarantine or self-quarantine.

An employee's child's school or place of care has moved to online instruction or to another model in which children are expected or required to complete assignments at home. Is it "closed?"

- Yes. If the physical location where the child received instruction or care is now closed, the school or place of care is "closed" for purposes of paid sick leave and expanded family and medical leave. This is true even if some or all instruction is being provided online or whether, through another format such as "distance learning," the child is still expected or required to complete assignments.

If the employee takes paid sick leave under the Emergency Paid Sick Leave Act, does that count against other types of paid sick leave to which they are entitled under State or local law, or the CSU's policy?

- No. Paid sick leave under the Emergency Paid Sick Leave Act is in addition to other leave provided under Federal, State, or local law; an applicable collective bargaining agreement; or CSU existing policy.

May an employee use paid sick leave and expanded family and medical leave together for any COVID-19 related reasons?

- No. The Emergency Family and Medical Leave Expansion Act applies only when employees are on leave to care for their child whose school or place of care is closed, or whose childcare provider is unavailable, due to COVID-19 related reasons. However, employee can take paid sick leave under the Emergency Paid Sick Leave Act for numerous other reasons. An employee can use paid sick leave for the first 10 days of unpaid Expanded Family and Medical Leave.

May an employee take paid sick leave or expanded family and medical leave intermittently while teleworking?

- Yes, if the appropriate administrator allows it, the employee is non-exempt, and if the employee is unable to telework their normal schedule of hours due to one of the qualifying reasons in the Emergency Paid Sick Leave Act. In that situation, the employee and the appropriate administrator may agree that the employee may take paid sick leave intermittently while teleworking. Similarly, if the employee is prevented from teleworking their normal schedule of hours because they need to care for a child whose school or place of care is closed, or childcare provider is unavailable, because of COVID-19 related reasons, the employee and the appropriate administrator may agree that the employee (non-exempt and exempt) can take expanded family medical leave intermittently while teleworking.

May an employee take expanded family and medical leave intermittently while their child's school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons, if not teleworking?

- Yes, Intermittent expanded family and medical leave should be permitted only when the employee and the appropriate administrator agree upon such a schedule. For example, if the appropriate administrator and employee agree, the employee may take expanded family and medical leave on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while their child is at home because the child's school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons, for the duration of the leave.

If an employee is home with their child because his or her school or place of care is closed, or childcare provider is unavailable, does the employee get paid sick leave, expanded family and medical leave, or both—how do they interact?

- An employee may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. The employee may take both paid sick leave and expanded family and medical leave to care for their child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded family and medical leave, which are otherwise unpaid under the Emergency and Family Medical Leave Expansion Act unless the employee elects to use existing CPAL, vacation, sick leave, CTO or Personal Holiday. After the first ten workdays have elapsed, the employee will receive their regular rate of pay for the hours they would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Are rehired annuitants eligible for FFCRA?

- Rehired annuitants can receive paid sick leave and/or family and medical leave under the FFCRA. These payments will not be considered to be prohibited benefits under applicable working after retirement laws, and a retired annuitant who receives paid sick leave and/or family and medical leave under the FFCRA will not be subject to reinstatement solely for receiving those payments. However, all hours of sick leave and/or family and medical leave paid to a retired annuitant under the FFCRA should be reported to CalPERS. These hours will be included in the 960-hour per fiscal year limitation for all retired annuitants (Gov. Code section 7522.56(d)).