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HR/Leaves 2020-03

To: Associate Vice Presidents, Human Resources
Associate Vice Presidents, Faculty Affairs

Reference: HR 2020-04
HR/Leaves 2020-02

CC: Benefits Officers
Payroll Managers

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Subject: Families First Coronavirus Response Act (FFCRA) – Effective April 1, 2020

Summary

The purpose of this technical letter is to provide campuses with instructions regarding the administration of 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.

The federal FFCRA and CSU's Coronavirus Paid Administrative Leave (CPAL) are two distinct paid leave programs and are mutually exclusive. The qualifying reasons for leave are very similar. However, some provisions differ, including eligibility, the amount of paid leave available, and the notification and documentation requirements. Campuses are urged to read both [HR/Leaves 2020-02](#), this Technical Letter, and FFCRA FAQs (Attachment A) carefully.

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.

Action Items

This Technical Letter should be reviewed by staff personnel responsible for administering and/or explaining CSU leaves.

Affected Employee Groups/Units

All employees eligible to participate in FFCRA.

Details

FFCRA leave is in addition to the CSU's CPAL program and is available for all employees (Note the exception under "Eligibility" below) including those not eligible for CPAL. FFCRA does not supersede CPAL or the paid leave provisions announced by the Chancellor on March 17, 2020 providing indefinite leave for employees who have underlying chronic medical conditions and/or who are 65 years or older and unable to work remotely. Also, FFCRA and CPAL do not supersede the provisions of the new COVID-19 emergency pay provisions announced in a memorandum by the Vice Chancellor of Human Resources on March 25, 2020.

Eligibility

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).

Exception: Emergency responders and health care workers are excluded from paid leave for Qualifying Reasons 4) and 5) cited below.

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.

Total Time Available under FFCRA

- For qualifying COVID-19 reasons **(1)-(6)**: A full-time employee is eligible for 80 hours of leave, and a part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.
- For qualifying COVID-19 reason **(5)**: A full-time employee is eligible for up to 12 weeks of leave (two weeks of paid sick leave followed by up to 10 weeks of paid expanded family & medical leave) at 40 hours a week, and a part-time employee is eligible for leave for the number of hours (or timebase) the employee is normally scheduled to work over that period.

Full Time Employees

Leave time may be used from April 1, 2020 through December 31, 2020. FFCRA allows employees to use this paid leave before using other accrued leave balances or any other paid leave such as CPAL, that may be available.

- Exempt Employees:
Exempt employees are to use paid leave in full day increments unless the leave is designated under **expanded family and medical leave** or other qualified medical and family reasons covered by the Family and Medical Leave Act (FMLA).
- Non-Exempt employees
Under the Fair Labor Standards Act (FLSA), non-exempt employees may use time in less than full day increments.

Less than Full Time Employees

The number of hours (or days, if exempt) for employees who work less than full-time shall be prorated according to the percent or timebase of the appointment (hours normally scheduled to work). In the case of an employee whose schedule varies from week to week to such an extent that the campus is unable to determine with certainty the number of hours the employee would have worked if such employee had not taken leave, the campus shall use the following in place of such number:

If the normal hours scheduled are unknown, or if the part-time employee's schedule varies, campuses may use a six-month average to calculate the average daily hours. If this calculation cannot be made because the employee has not been employed for at least six months, use the number of hours that the employee is expected to work.

Calculation of Pay

Employees on FFCRA will be paid at their "regular rate of pay" as defined by FLSA. This includes pay the employee is receiving currently which could include base pay, shift differential, stipends, allowances, etc. Campuses should continue to pay wages as paid prior to the COVID-19 emergency declaration. FFCRA shall not be used to extend temporary appointments, contracts, or to pay wages in a collective bargaining agreement (CBA) that have expired.

For all qualified leave reasons **(1) – (6) listed above**, employees taking leave shall be paid at their regular rate of pay.

Reasonable Notification and Documentation

FFCRA Poster:

Effective immediately, campuses must post a notice (Attachment B) required by the Department of Labor. Campuses should post this notice on the campus website or on their COVID-19 specific site.

Employee Documentation

Employees requesting paid leave under FFCRA must submit a Request for FFCRA Form (Attachment C) to their HR office.

- To take **paid sick leave** for the qualifying COVID-19 related reason **(1)**, an employee must additionally provide the HR office with the name of the government entity that issued the Quarantine or Isolation Order.
- To take **paid sick leave** for a qualifying COVID-19 related reason under **(2)**, an employee must additionally provide the HR office with the name of the health care provider who advised the employee to self-quarantine due to concerns related to COVID-19.
- To take **paid sick leave** for a qualifying COVID-19 related reason under **(4)**, an employee must additionally provide the HR office with either: (a) the name of the government entity that issued the Quarantine or Isolation Order to which the individual being cared for is subject; or (b) The name of the health care provider who advised the individual being cared for to self-quarantine due to concerns related to COVID-19.
- To take **paid sick leave** for a qualifying COVID-19 related reason under **(5)** and/or **expanded family and medical leave**, an employee must provide the HR office: (a) the name of the son or daughter being cared for; (b) the name of the school, place of care, or childcare provider that has closed or become unavailable; and (c) a representation that no other suitable person will be caring for the son or daughter during the period for which the employee takes Paid Sick Leave or Expanded Family and Medical Leave.

Coordination of CPAL and FFCRA

The federal FFCRA and CSU's Coronavirus Paid Administrative Leave (CPAL) are two distinct paid leave programs and are mutually exclusive. The language in the provisions may differ slightly between the two programs but the intent of the two programs are the same – to provide paid leave for COVID-19 related reasons. See below where provisions between plans differ. It is the intent that employees use CPAL before FFCRA. However, this is not a mandate. Employees may choose the order in which they take the leaves.

Program Details	CPAL	FFCRA
Eligibility	All employees with a timebase and student employees	Paid sick leave: All employees.* Expanded family and medical leave: All employees employed for at least 30 days. * Exception: Emergency responders and health care workers are excluded from paid leave for Qualifying Reasons 4) and 5) cited on page 2.
Qualifying Reasons for Leave – where CPAL and FFCRA differ.	Isolation/Quarantine: Caring for a “ family member ” who has COVID-19, is isolating or quarantined.	Isolation/Quarantine: Caring for an “ individual ” who has COVID-19, is isolating or quarantined.
Amount of Paid Leave Available	256 hours of paid administrative leave for all Qualifying Reasons for Leave	80 hours paid sick leave for all Qualifying Reasons. 2 weeks of unpaid and 10 weeks of paid expanded family and medical leave for school or daycare closure.
Employee Substantiation	Self-certification on Request for CPAL Form.	Necessary for all qualifying reasons for leave. Also, self-certification on Request for FFCRA Form.

Leave Allowed under other Paid or Unpaid Leave Programs

CPAL

Employees may be eligible to use paid administrative leave under the CSU Coronavirus Paid Administrative Leave program enacted by the Chancellor through policy and effective from March 23, 2020 through December 31, 2020. See [HR 2020-04](#) and [HR/Leaves 2020-02](#) for further details.

Family Medical Leave

The CSU Family Medical Leave (CSU FML) policy will apply to employees meeting the definition of a serious medical condition for themselves or immediate family members. If an exempt employee is covered under CSU FML, leave may be tracked by hours rather than in full day increments.

The Emergency Family and Medical Leave Expansion Act under FFCRA utilizes the same 12-week leave entitlement as FMLA. If an employee has used any of their 12-week entitlement under FMLA, the entitlement under EFMLEA will be reduced by the amount already used. However, the amount used will not count against their leave entitlement under the California Family Rights Act (CFRA).

Non-Industrial Insurance (NDI) and other CSU Disability Leave Programs including Workers' Compensation/Industrial Disability Leave (IDL)

Employees may be eligible to apply for these leaves if they meet the current eligibility requirements and approvals specific to each leave program.

Catastrophic Leave Program – Illness or Injury

Employees may be eligible for the CSU Catastrophic Leave Program for illness or injury if they meet the eligibility requirements as described under CSU policy or their CBA.

Definitions

Childcare Provider

A “childcare provider” is someone who cares for the employee’s child. This includes individuals paid to provide childcare, like nannies, au pairs, and babysitters. It also includes individuals who provide childcare at no cost and without a license on a regular basis, for example, grandparents, aunts, uncles, or neighbors.

Child (Son or Daughter)

As described in CSU policy and CBA.

Employee

All employees. Exception: Emergency responders and health care workers are excluded from paid leave for Qualifying Reasons 4) and 5) one page 2.

Individual

An employee’s immediate family member, a person who regularly resides in the employee’s home, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person if he or she were quarantined or self-quarantined. For this purpose, “individual” does not include persons with whom the employee has no personal relationship.

Common Management Systems (CMS) Processing Instructions

CMS is developing new processes to track these various types of leave including paid leave provided for by CPAL and FFCRA in both Absence Management and Time and Labor.

Absence Management

CMS will be leveraging the “Organ Donor” leave code (ODP AT ORGAN) for reporting CPAL and FFCRA. Campuses are directed to begin reporting paid leave in Absence Management via “Organ Donor” immediately. The following notation is to be included in the Comments section:

- ‘CPAL’ for CSU COVID-19 Paid Administrative Leave
- ‘CSIC’ for FFCRA Sick Leave
- ‘CFML’ for FFCRA Family Medical Leave

The ‘Organ Donor’ label will be changed to ‘PAL/FFCRA’ in the Maintenance Pack (MP) when it’s released. All past Organ Donor labels will be updated.

Time and Labor

New Time Reporting Codes (TRC) will be available in Time and Labor for reporting positive pay for time taken under CPAL and FFCRA.

- CPAL – COVID PAL - (Effective 3/23)
- CSIC – COVID FFCRA Sck - (effective 4/1)
- CFML – COVID FFCRA FML - (Effective 4/1)

Reports will be developed to track usage in Time and Labor. Both changes are being developed with the intent of having a MP available before next payroll cutoff (4/22). More information will be forthcoming once the process is finalized.

Questions regarding this Technical Letter may be directed to the CO Human Resources Management Team at hradmin@calstate.edu or (562) 951-4411. For your convenience, this memorandum is also available on the CSYou website at: <https://csyou.calstate.edu/Policies/HRPolicies/Forms/Default.aspx>.

Attachment A: FFCRA FAQs

Attachment B: FFCRA Poster

Attachment C: Request for FFCRA Form

Families First Coronavirus Relief Act

Emergency Paid Sick Leave Act

Emergency Family and Medical Leave Act

FAQs

-As of April 17, 2020-

Note: The following Questions and Answers below are taken from the [US Department of Labor's Wage and Hour Division Website](#). Non-substantive word changes have been made to reflect CSU common naming conventions and familiar terminology.

- 1. May an employee take 80 hours of paid sick leave for self-quarantine and then another amount of paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?**

No. The employee may take up to two weeks—or ten days—(80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which an employee receives paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.
- 2. 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.

Please note that an employee can only receive the additional ten weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for a child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons.

- 3. Is all leave under the FMLA now paid leave?**

No. The only type of family and medical leave that is paid leave is expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act when such leave exceeds ten days. This includes only leave taken because the employee must care for a child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons.
- 4. Are the paid sick leave and expanded family and medical leave requirements retroactive prior to April 1, 2020?**

No.

5. **How is the 30-day eligibility requirement calculated for purposes of expanded family and medical leave?**

The employee must be on payroll for 30 days to be eligible for EFMLEA.

6. **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.

7. **If the employee becomes unable to telework, is the employee entitled to paid sick leave or expanded family and medical leave?**

If the appropriate administrator permits teleworking—for example, allows the employee to perform certain tasks or work a certain number of hours from home or at a location other than the employee’s normal workplace—and the employee is unable to perform those tasks or work the required hours because of one of the qualifying reasons for paid sick leave, then the employee is entitled to take paid sick leave.

Similarly, if the employee is unable to perform those teleworking tasks or work the required teleworking 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, then the employee is entitled to take expanded family and medical leave. To the extent the employee is able to telework while caring for their child, paid sick leave and expanded family and medical leave is not available.

8. **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.

9. **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.

10. **Who is a son or daughter?**

Under the FFCRA, a “son or daughter” is an employee’s own child, which includes a biological, adopted, or foster

child, stepchild, a legal ward, or a child for whom the employee is standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child.

In light of Congressional direction to interpret definitions consistently, WHD clarifies that under the FFCRA a “son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability.

11. 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.

12. 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.

13. 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.

14. 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.

15. 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.

16. Can an employee be paid sick leave to care for any individual who is subject to a quarantine or isolation order or who has been advised to self-quarantine?

An employee may take paid sick leave under the FFCRA to care for an immediate family member or someone who regularly resides in their home. They may also take paid sick leave under the FFCRA to care for someone where their relationship creates an expectation that they care for the person in a quarantine or self-quarantine situation, and that individual depends on them for care during the quarantine or self-quarantine.

However, an employee may not take paid sick leave under the FFCRA to care for someone with whom they have no relationship. Nor can they take paid sick leave under the FFCRA to care for someone who does not expect or depend on their care during his or her quarantine or self-quarantine due to COVID-19.

17. When is an employee eligible for paid sick leave to care for someone who is self-quarantining?

An employee may take paid sick leave to care for a self-quarantining individual if a health care provider has advised that individual to stay home or otherwise quarantine him or herself because he or she may have COVID-19 or is particularly vulnerable to COVID-19 and provision of care to that individual prevents the employee from working (or teleworking).

18. May an employee take paid sick leave or expanded family and medical leave to care for their child who is 18 years old or older?

It depends. Under the FFCRA, paid sick leave and expanded family and medical leave include leave to care for one (or more) children when his or her school or place of care is closed or child care provider is unavailable, due to COVID-19 related reasons. This leave may only be taken to care for their non-disabled child if he or she is under the age of 18. If their child is 18 years of age or older with a disability and cannot care for him or herself due to that disability, an employee may take paid sick leave and expanded family and medical leave to care for him or her if his or her school or place of care is closed or his or her child care provider is unavailable, due to COVID-19 related reasons, and the employee is unable to work or telework as a result.

In addition, paid sick leave is available to care for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. If an employee has a need to care for their child age 18 or older who needs care for these circumstances, they may take paid sick leave if they are unable to work or telework as a result of providing care. But in no event may their total paid sick leave exceed two weeks.

19. What is a “place of care”?

A “place of care” is a physical location in which care is provided for an employee’s child. The physical location does not have to be solely dedicated to such care. Examples include day care facilities, preschools, before and after school care programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.

20. Who is a “childcare provider”?

A “childcare provider” is someone who cares for an employee’s child. This includes individuals paid to provide childcare, like nannies, au pairs, and babysitters. It also includes individuals who provide child care at no cost and without a license on a regular basis, for example, grandparents, aunts, uncles, or neighbors.

21. Can more than one guardian take paid sick leave or expanded family and medical leave simultaneously to care for the employees’ child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons?

An employee may take paid sick leave or expanded family and medical leave to care for their child only when they need to, and actually are, caring for their child if they are unable to work or telework as a result of providing care. Generally, employees do not need to take such leave if a co-parent, co-guardian, or the usual childcare

provider is available to provide the care the child needs.

22. 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.

23. May an employee take paid sick leave to care for a child other than their own child?

It depends. The paid sick leave provided under the FFCRA to care for one (or more) of children when the place of care is closed (or childcare provider is unavailable) due to COVID-19 related reasons, may only be taken to care for their own "son or daughter."

However, paid sick leave is also available to care for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. If an employee has a need to care for a child who meets these criteria, they may take paid sick leave if they are unable to work or telework as a result of providing care. But in no event may an employee total paid sick leave exceed two weeks.

24. May an employee take expanded family and medical leave to care for a child other than their own child?

No. Expanded family and medical leave is only available to care for an employees' own "son or daughter."

25. As an employer, how much do I pay a seasonal employee with an irregular schedule for each day of paid sick leave or expanded family and medical leave that he or she takes?

You may calculate the daily amount you must pay a seasonal employee with an irregular schedule by taking the following steps.

- a. First, you should calculate how many hours of leave your seasonal employee is entitled to take each day. Because your employee works an irregular schedule, this is equal to the average number of hours each day that he or she was scheduled to work over the period of employment, up to the last six months.
- b. Second, you should calculate the seasonal employee's regular hourly rate of pay. This is calculated by adding up all wages paid over the period of employment, up to the last six months, and then dividing that sum by the number of hours actually worked over the same period.
- c. Third, you multiply the daily hours of leave (first calculation) by your employee's regular hourly rate of pay (second calculation) to compute the base daily paid leave amount.
- d. Fourth, you should determine the actual daily paid leave amount, which depends on the type of paid leave taken and the reason for such paid leave.

26. May an employee take paid sick leave or expanded family and medical leave if receiving workers' compensation or temporary disability?

In general, no, unless they were able to return to light duty before taking leave. If they receive workers' compensation or temporary disability benefits because they are unable to work, they may not take paid sick leave or expanded family and medical leave. However, if the employee is able to return to light duty and a qualifying reason prevents them from working, they may take paid sick leave or expanded family and medical leave, as the situation warrants.

27. May an employee take paid sick leave or expanded family and medical leave under the FFCRA if on an approved leave of absence?

It depends on whether the leave of absence is voluntary or mandatory. In the event of a mandatory leave of absence, the mandatory leave prevents an employee from being able to work (or telework), not a qualifying reason under the FFCRA. Therefore, an employee on mandatory leave of absence may not take paid sick leave or expanded family and medical leave under the FFCRA. However, if the leave of absence is voluntary, the employee may end their leave of absence and begin taking paid sick leave or expanded family and medical leave under the FFCRA if a qualifying reason prevents them from being able to work (or telework).

Please Note: When work is available (work on campus or telework) and the employee chooses not to work for any reason NOT related to COVID-19, campuses should work with their assigned Labor Relations Manager.

Additional FAQs Related to the Implementation of FFCRA not included on the [US Department of Labor's Wage and Hour Division Website](#)

General

- 1. The Emergency Paid Sick Leave Act (EPSLA) and Emergency Family and Medical Leave Expansion Act (EFMLEA) under FFCRA grant full and 2/3 pay up to certain pay thresholds for paid leave for qualifying reasons due to COVID-19. Technical letter HR/Leaves 2020-03 states that employees are eligible for 100% of the regular rate of pay for all qualifying reasons. Why isn't the CSU following the pay limitations in FFCRA?**

The Chancellor approved an expansion of FFCRA to allow paid leave up to 100% of an employee's regular rate of pay for all qualifying reasons under FFCRA.

Eligibility

- 2. 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)).

- 3. Are Work Study students eligible for FFCRA?**

No. Federal work-study students are not technically eligible for paid administrative leave under FFCRA or CPAL but they are eligible for continuation of pay based on their established work schedule **if** their work location is closed and they are unable to work from home. If it is determined that work-study students are eligible for continuation of their pay, do not track this time under FFCRA and CPAL.

- 4. Are Emergency Responders and Health Care workers excluded from FFCRA?**

It depends. Health care workers and emergency responders are not eligible to take FFCRA for the following reasons:

- Caring for an individual (1) subject to Federal, State, or local quarantine or isolation order related to COVID-19 or (2) has been advised by a health care provider to self-quarantine related to COVID-19
- Caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19

Coordination of Other Paid and Unpaid Leave (CSU FML, FMLA, CFRA, CPAL and Extended FML)

- 5. What if an employee has exhausted their FMLA expanded entitlement under FFCRA COVID-19 (school or daycare closures) and then later needs to take a leave of absence that is CSU FML qualifying later within that same 12-month period?**

The employee would be eligible for CSU FML entitlement (12 weeks) under CFRA due to CFRA not tracking with FFCRA for school or childcare closures.

For example, the employee used 12 weeks beginning April 1, 2020 – June 24, 2020 (12 weeks) for the reason of school or childcare closure under FFCRA, then became ill with their own serious health condition beginning October 1, 2020. This employee would be entitled to a 12-week entitlement through CSU FML under CFRA. So although the FFCRA expanded FMLA if used for childcare, would affect the FMLA 12 week entitlement, it would not under CFRA. However, if the employee is out for their own serious health condition related to COVID-19 (developed pneumonia) or is caring for an eligible dependent that has developed complications associated with COVID-19 this would also count against their 12-week entitlement under CSU FML Policy.

- 6. If an employee takes CPAL for school or daycare closure, does that paid time count against their 12-week entitlement under the CSU FML policy?**

Entitlement under CSU FML policy cannot diminish the paid time allowed under **EFMLEA**. Therefore, CPAL should not be designated as extended family and medical leave under CSU FML Policy.

- 7. If an employee's leave under FFCRA is due to a school or daycare closure, can the campus automatically designate as extended FML or must this designation need to be mutually agreed upon?**

The employee does not need to mutually agree. Remember, it is not up to the employee to designate FMLA it is the responsibility of the employer.

- 8. When can campuses allow exempt employees to use less than full day under CPAL and FFCRA?**

As previously stated in prior tech letters regarding CPAL, exempt employees who use CPAL for any reasons, must still do so in full day increments. However, for extended family and medical leave under FFCRA, exempt employees are able to use partial days.

EMPLOYEE RIGHTS

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

Note: The California University FFCRA provisions provides for leave at an employee's regular rate of pay for all qualifying reasons. Please consult with your campus human resources office for details.

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;
- ⅔ 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 ⅔ 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:

- | | |
|---|---|
| <ol style="list-style-type: none">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); | <ol style="list-style-type: none">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; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|

► 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



<Campus Logo>

Request for Emergency Paid Sick Leave/Emergency FML Expansion Families First Coronavirus Response Act (FFCRA)

Employee Name:		Employee ID:	
Job Title:		Division/Department:	
Classification:		Full-Time: <input type="checkbox"/>	Part-Time: <input type="checkbox"/>
Supervisor Name:		Exempt: <input type="checkbox"/>	Non-Exempt: <input type="checkbox"/>
		Supervisor email/Ext.:	

PERMISSIBLE USE OF LEAVE

Select at least one (1)	Qualifying Reasons to Use Emergency Paid Sick Leave or Emergency FML Expansion under FFCRA if I am unable to work (or telework)								
<input type="checkbox"/>	1. I am subject to a federal, state, or local quarantine or isolation order related to COVID-19 that specifically prevents me from working. Name of the government entity issuing the order: _____								
<input type="checkbox"/>	2. I have been advised by a health care provider to self-quarantine because of concerns related to COVID-19. Name of the advising healthcare provider: _____								
<input type="checkbox"/>	3. I have symptoms of COVID-19 and I am seeking (or have sought) a diagnosis.								
<input type="checkbox"/>	4. I am caring for another individual who is subject to quarantine or has been advised by a health care provider to self-quarantine related to COVID-19. Name of person I am caring for: _____ Relationship: _____ Name of the government entity issuing the order: _____ <i>OR</i> Name of the advising healthcare provider: _____								
<input type="checkbox"/>	5. I need to care for my child(ren) because their school or childcare provider is closed or unavailable because of COVID-19. I certify that no other suitable person is available to care for the child(ren) during the period of requested leave. Name(s) and age(s) of child(ren): <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 5px;"> <tr><td style="width: 50%; height: 20px;"></td><td style="width: 50%; height: 20px;"></td></tr> <tr><td style="width: 50%; height: 20px;"></td><td style="width: 50%; height: 20px;"></td></tr> </table> Name of closed school(s) or place(s) of care: <table border="1" style="width: 100%; border-collapse: collapse; margin-bottom: 5px;"> <tr><td style="width: 50%; height: 20px;"></td><td style="width: 50%; height: 20px;"></td></tr> <tr><td style="width: 50%; height: 20px;"></td><td style="width: 50%; height: 20px;"></td></tr> </table> <input type="checkbox"/> I have been employed for at least 30 days.								

Request for Dates of Emergency Paid Sick Leave or Emergency FML Expansion under FFCRA

Month	Dates Requested (Additional detail may be attached to this form. Exempt employees must use time in full day increments if not covered under FML.)	Total Number of Hours Requested	Total Number of Hours Used Prior to this Request under FFCRA	Total Number of Hours Remaining in Allotment
Total Hours				

<Campus Logo>

Request for Emergency Paid Sick Leave/Emergency FML Expansion Families First Coronavirus Response Act (FFCRA)

To the best of my knowledge and belief, I certify that the facts stated are accurate. I understand I may be asked to substantiate the reason for the leave in accordance with the federal or state law, current Collective Bargaining Agreements and/or CSU Policies. Where Federal law is in conflict with current Collective Bargaining Agreements and/or CSU Policies, Federal law prevails. I understand that dishonesty is grounds for discipline.

Employee Name: _____ Signature: _____ Date: _____

I acknowledge the employee's request for FFCRA paid leave as indicated above.

Appropriate Administrator Name: _____ Signature: _____ Date: _____

NOTE: HUMAN RESOURCES SHOULD BE CONSULTED PRIOR TO ANY APPROVAL/DENIAL BEING COMMUNICATED TO THE EMPLOYEE.

HR/Academic Personnel Office Approval of Qualifying Reason for Time Requested, Type of Paid Leave Requested and Length of Time Requested

- Employee is eligible for up to 80 hours of paid sick leave (prorated for part-time employees). Leave time is paid at the employee's regular rate of pay.

- Employee is eligible for up to 12 weeks of expanded FMLA leave, under reason 5. The first 10 days may be unpaid or employee may use accrued paid leave or FFCRA emergency sick leave. Remaining leave time after the first 10 days is at the employee's regular rate of pay.

HR/Academic Personnel Designee Name: _____ Signature: _____ Date: _____