

FFCRA – EMPLOYER NOTICE REQUIREMENT



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Family First (FFCRA) Coronavirus Response Act

- Signed into law March 18, 2020
- Emergency Paid Sick Leave Act (EPSLA)
- Emergency Family and Medical Leave Expansion Act (EFMLEA)
 - Effective April 1, 2020
 - Expires December 31, 2020 • Enforced by the U.S. Department of Labor Wage and Hour Division (WHD)

Temporary Rule: Paid Leave under the Families First Coronavirus Response Act

- On April 1, 2020, the U.S. Department of Labor announced new action regarding how American workers and employers will benefit from the protections and relief offered by the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act, both part of the Families First Coronavirus Response Act (FFCRA).

Temporary Rule: Paid Leave under the Families First Coronavirus Response Act

- The Department's Wage and Hour Division (WHD) posted a temporary rule issuing regulations pursuant to this new law, effective April 1, 2020. For more information, see <https://www.dol.gov/agencies/whd/ffcra>.

Temporary Rule: Paid Leave under the Families First Coronavirus Response Act

- FFCRA will help the United States combat and defeat COVID-19 by reimbursing American private employers that have fewer than 500 employees with tax credits for the cost of providing employees with paid leave taken for specified reasons related to COVID-19.

Temporary Rule: Paid Leave under the Families First Coronavirus Response Act

- The legislation will ensure that workers are not forced to choose between their paychecks and the public health measures needed to combat the virus, while at the same time reimbursing businesses.

Recordkeeping

- (PDF): Employers must display an official poster outlining the requirements of the FLSA.
- Employers must also keep employee time and pay records.

Records To Be Kept By Employers

- Employee's full name and social security number.
- Address, including zip code.
- Birth date, if younger than 19.
- Sex and occupation.
- Time and day of week when employee's workweek begins.
- Hours worked each day.
- Total hours worked each workweek.

Records To Be Kept By Employers

- Basis on which employee's wages are paid (e.g., "\$9 per hour", "\$440 a week", "piecework")
- Regular hourly pay rate.
- Total daily or weekly straight-time earnings.
- Total overtime earnings for the workweek.
- All additions to or deductions from the employee's wages.
- Total wages paid each pay period.
- Date of payment and the pay period covered by the payment

How Long Should Records Be Retained

- Each employer shall preserve for at least three years payroll records, collective bargaining agreements, sales and purchase records.
- Records on which wage computations are based should be retained for two years, i.e., time cards and piece work tickets, wage rate tables, work and time schedules, and records of additions to or deductions from wages.

How Long Should Records Be Retained

- These records must be open for inspection by the Division's representatives, who may ask the employer to make extensions, computations, or transcriptions. The records may be kept at the place of employment or in a central records office.

Wages and the Fair Labor Standards Act

- FLSA Overtime: Covered nonexempt employees must receive overtime pay for hours worked over 40 per workweek (any fixed and regularly recurring period of 168 hours – seven consecutive 24-hour periods) at a rate not less than one and one-half times the regular rate of pay.
- The FLSA does not require overtime pay for work on weekends, holidays, or regular days of rest, unless overtime is worked on such days.

Rest and Meal Periods

- Short rest breaks (20 min or less) are compensable
- Bona fide meal periods (typically 30 minutes or more) need not be paid as hours worked
- Worker must be completely relieved of duty for meal period not to be compensable time.

Hours Worked Summary and Common Violations

- ***Suffered or Permitted:*** working “off the clock”
- ***Waiting Time:*** engaged to wait
- ***On-Call Time:*** not free from duty or employer control
- ***Meal and Rest Periods:*** not free from duty
- ***Training Time:*** unpaid training during work time
- ***Travel Time:*** unpaid travel between job sites
- ***Sleep Time:*** deduct for sleep in less than 24-hour shift

Non-Exempt Professions

Common errors: misapplication of exemptions

- Licensed Practical Nurses
- Paralegals, legal assistants
- Engineering Technicians
- Accounting clerks, bookkeepers typically performing routine work

FFCRA–Employer Notice Requirement

- Poster must be conspicuously posted, may be distributed online, posted on employer website, directly mailed or e-mailed to employees – Does not have to be visible to job applicants
- DOL Spanish and English FFCRA posters available online at www.dol.gov/agencies/whd – Translation not required.

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:

- | | |
|---|---|
| <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](https://www.dol.gov/agencies/whd)



WH1422 REV 03/20



Quick BENEFITS TIPS FROM DOL

How much paid leave can employees take?



In general, applies to you if you are an employee of either a private employer with fewer than 500 employees or a covered public sector employer



You are following a federal, state, or local quarantine or stay-at-home order or are quarantined by a health care provider

OR

You have COVID-19 symptoms and are seeking a diagnosis

TIME OFF

Up to two weeks or 80 hours of paid sick leave at higher of regular rate or minimum wage*



You must care for someone under a federal, state, or local quarantine or stay-at-home order or are quarantined by a health care provider

OR

You must care for your child whose school, child care provider, or place of care is unavailable due to COVID-19

TIME OFF

Up to two weeks or 80 hours of paid sick leave at higher of 2/3 regular rate or minimum wage*



You must care for your child whose school, child care provider, or place of care is unavailable due to COVID-19

AND

You've been employed at least 30 calendar days

TIME OFF

Up to 10 additional weeks of family leave paid at 2/3 regular rate*

*Paid leave is capped at specific maximum amounts per worker

Learn more at dol.gov/FFCRA



OSHA COVID-19

- Recording workplace exposures to COVID-19
- OSHA recordkeeping requirements at 29 CFR Part 1904 mandate covered employers record certain work-related injuries and illnesses on their OSHA 300 log.
- COVID-19 can be a recordable illness if a worker is infected as a result of performing their work-related duties. However, employers are only responsible for recording cases of COVID-19 if all of the following are true:
 - The case is a confirmed case of COVID-19 (see CDC information on persons under investigation and presumptive positive and laboratory-confirmed cases of COVID-19).

OSHA COVID-19

- The case is work-related (as defined by 29 CFR 1904.5); and
- The case involves one or more of the general recording criteria set forth in 29 CFR 1904.7 (e.g., medical treatment beyond first aid, days away from work).
- Employers should also consult OSHA's Enforcement Guidance for Recording Cases of Coronavirus Disease 2019 (COVID-19).
- Visit OSHA's Injury and Illness Recordkeeping and Reporting Requirements page for more information.



THANK YOU.

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