

Families First Coronavirus Response Act (FFCRA)

Introduction

In keeping with Fayette County Public Schools dedication to ensure the health and safety of our employees during this unprecedented challenging time, the Financial Accounting and Benefits Services (FABS) is providing a brief summary of important provisions regarding the temporary federal emergency paid sick leave and expansion of family medical leave entitlements.

On March 18, 2020, Congress passed the Families First Coronavirus Response Act¹ (FFCRA), H.R. 6201. The FFCRA is effective Wednesday, April 1, 2020, through Thursday, December 31, 2020. While the law provides a range of measures designed to ease economic pressures associated with the coronavirus (COVID-19) crisis, two key sections will impact existing County Policy with respect to leave related to COVID-19. Among other things, the FFCRA temporarily provides up to 80 hours of new emergency paid sick leave and expands the Family and Medical Leave Act (FMLA). This memorandum outlines those important provisions as well as their impact on any existing Fayette County Public Schools policies and practices.

Overview of Temporary Entitlements

The FFCRA requires “employers with existing paid leave policies to make the emergency paid sick leave available in addition to their own polic[ies]’ paid leave.”² The effect of this provision is that, when a leave request has any relation to COVID-19, the temporary entitlements outlined below will be the primary sources of leave for the duration of the legislation, unless the utilization of another District-provided paid benefit is mutually agreed upon by the employee as well as the appointing authority/designee.

Emergency Paid Sick Leave Act (EPSL)

Under the FFCRA,³ EPSL is immediately available where an employee’s request is due to (1) a Federal, State, or local quarantine or isolation order; (2) the advice of a healthcare provider to self-quarantine due to concerns related to COVID-19; (3) an employee or family member experiencing symptoms and seeking a medical diagnosis; (4) care for an individual subject to a quarantine or isolation order; or an individual advised to self-quarantine by a healthcare provider; (5) care for a child because of school and childcare provider closures related to COVID-19; or (6) an employee experiencing any substantially similar condition as identified by the Secretary of the Department of Health and Human Services in consultation with the Secretary of Treasury and the Secretary of Labor.

The EPSL benefits are in addition to the District’s sick leave policy⁴, the District’s current Sick Leave allowances⁵, and does not provide an employee with additional sick days, as the District front-loads days. On the other hand, the EPSL provided in the FFCRA makes up to 80 hours of paid sick leave available immediately to all full-time employees, regardless of the length of employment, and is not subject to reimbursement. Additionally, part-time

¹ H.R. 6201, 116th Cong. (2020).

² Family First Coronavirus Response Act (H.R. 6201) Summary, International Public Management Association for Human Resources.

³ H.R. 6201, [1501](#).

⁴ [Personnel Procedure 284 Section 5: Sick Leave](#)

⁵ COVID-19 FAQ

employees are entitled to paid sick leave that amounts to the number of hours they would work over a two-week period.⁶

The paid leave benefit of EPSL is not to exceed \$511 per day and \$5,110 in total when leave is taken for the employee's own condition.⁷ However, when leave is taken to care for a family member, the EPSL benefit is calculated at a rate of two-thirds (2/3) of an employee's regular rate, but not more than \$200 per day and \$2,000 in total. Paid sick time under this section does not carry over from one year to the next as the FFCRA sunsets on December 31, 2020.

In short, starting Wednesday, April 1, 2020, employees needing to take leave related to COVID-19 have the option to take leave under one of the following: (1) the FFCRA's EPSL provision; (2) traditional accrued sick leave; (3) Health and Safety administrative leave; or (4) SSL. EPSL need not be paid out on termination of employment and may be used intermittently under specific conditions approved by the Agency.⁸

Expanded Family and Medical Leave Act (EFMLA)

Under the FFCRA,⁹ the traditional FMLA is expanded to allow benefits for an employee who is unable to work or telework, due to a need to care for the employee's child. Unlike the traditional FMLA, which allows benefits for an employee's serious health condition, the EFMLA only allows benefits for school or childcare closures. In addition, the EFMLA provides paid leave once an employee is unable to work or telework for more than 10 days due to school or childcare closures. In addition to the narrower qualifying condition scope, the EFMLA differs substantially from traditional FMLA and the District's Family and Medical Leave policy¹⁰ because an employee is eligible for EFMLA after 30 days rather than after twelve months of employment.

Further, if an employee seeks to claim this benefit, the first 10 days may be unpaid or substituted for other leave, including EPSL. Employers must provide paid leave for the subsequent 10 weeks at a rate no less than two-thirds (2/3) of an employee's usual rate of pay.¹¹ Paid leave cannot exceed \$200 per day or \$10,000 in total.¹² Under regulation by the Secretary of Labor, certain health care providers or emergency responders can be excluded from eligibility for this leave.¹³

Conclusion

We will continue to monitor the fast-moving legislative efforts of Congress in support of workers and workplaces, during this public health emergency. For additional questions regarding the impact of the FFCRA to current District Policy, please contact by email: employeebenefits@fayette.kyschools.us or (859)381-4117.

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⁶ H.R. 6201, 1502(b)(2)(B).

⁷ *Id.* 5110(5)(A).

⁸ If EPSL is requested because the employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19; has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; is experiencing symptoms of COVID-19 and seeking a medical diagnosis; is caring for an individual who either is subject to a 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; or is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, the EPSL may NOT be used intermittently. The employee must continue to take paid sick leave each day until either: (1) the full amount of EPSL is exhausted or (2) the employee no longer has a qualifying reason for taking paid sick leave. This limit is imposed because the intent of FFCRA is to provide such paid sick leave to employees who are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19 as necessary to keep employees from spreading the virus to others.

⁹ H.R. 6201, 3102.

¹⁰ [Personnel Procedure 284 Section 11: County Family and Medical Leave](#)

¹¹ Denise E. Giraudo and Ryan J. Munitz, *What Employers Need to Know*, National Law Review, March 2020, <https://www.natlawreview.com/article/what-employers-need-to-know-about-hr-6201-families-first-coronavirus-response-act>.

¹² H.R. 6201, 5110(b)(2).

¹³ *Id.* 3105.