

# 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 their MPP manager 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 employee is assigned to perform certain tasks or work a certain number of hours from home 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 their MPP manager 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 their MPP manager 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 MPP manager agree upon such a schedule. For example, if the MPP manager 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. 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.

**26. 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 a mandatory leave of absence may not take paid sick leave or expanded family and medical leave under 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 FFCRA if a qualifying reason prevents them from being able to work (or telework).