

FAMILIES FIRST CORONAVIRUS RESPONSE ACT LEAVE POLICY

It is the policy of _____ ("Company") to comply with the requirements of the federal Families First Coronavirus Response Act ("FFCRA"). The FFCRA provides employees with Emergency Paid Sick Leave and Emergency Paid Family and Medical Leave for those affected by the COVID-19 pandemic, from April 1, 2020 through December 31, 2020.

A. Emergency Paid Sick Leave ("EPSL")

EPSL will be available for an employee who is unable to work or work remotely because:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. The employee is caring for an individual who is subject to quarantine or isolation or advised to self-quarantine by a health care provider due to concerns related to COVID-19;
5. The employee is caring for a child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions; or
6. The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

"Child" means a biological, adopted or foster child, a stepchild, a legal ward, or a child of an employee standing in loco parentis, who is:

- Under 18 years of age.
- 18 or older and incapable of self-care because of a mental or physical disability.

"Individual" means an immediate family member, roommate or 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 self-quarantined or was quarantined. Additionally, the individual being cared for must: a) be subject to a federal, state or local quarantine or isolation order as described above; or b) have been advised by a health care provider to self-quarantine based on a belief that he or she has COVID-19, may have COVID-19 or is particularly vulnerable to COVID-19.

Eligibility for EPSL

All employees, regardless of their tenure with the Company, with full-time or part-time status are eligible to receive this benefit.

Paid Benefits for EPSL

Eligible employees will receive, for each applicable hour, paid leave at the employee's regular rate of pay (or at the applicable federal, state or local minimum wage rate, whichever is greater), for up to two weeks of EPSL as follows:

- Full-Time Employees (regularly scheduled to work 40 or more hours per week): 80 hours at their regular rate of pay, subject to the caps and reasons noted below. A part-time employee may be considered full-time under this policy if the average of the employee's scheduled hours over a 6-month period is at least 40 hours per week.
- Regular Part-Time Employees (consistently work a set schedule of less than 40 hours per week): the average number of hours that the employee works over a two week period, subject to the caps and reasons noted below.
- Variable Part-Time Employees (work a variable schedule per week): the total hours the employee was scheduled to work in the 6-month period preceding the need for leave (or if employed for less than 6 months, the total hours during the entire period of employment), divided by the number of calendar days in that period, then multiplied by 14, subject to the caps and reasons noted below.

Payments are capped at \$511 a day (\$5,110 in total) for employees taking EPSL to deal with the employee's own illness or quarantine (reasons 1, 2 and 3 above). Employees who are taking EPSL to care for an individual affected by COVID-19 and those whose children's schools or childcare providers have closed (reasons 4, 5 and 6 above) are entitled to two-thirds of the applicable rate of pay, which benefit is capped at \$200 a day (\$2,000 in total).

Employees have no right or entitlement to receive financial compensation or other reimbursement for unused EPSL upon the employee's separation from employment or following expiration of the FFCRA on December 31, 2020.

Return to Work Following EPSL

Employees are required to follow guidelines established by the [Centers for Disease Control and Prevention](#) as it relates to the discontinuance of home isolation practices.

B. Emergency Family Medical Leave Act ("EFMLA") Expansion

Employees will be entitled to take up to 12 weeks of job-protected leave if an employee is unable to work (or work remotely) due to the need to care for the employee's child because the child's school or place of care has been closed or the childcare provider is unavailable due to a public health emergency with respect to COVID-19.

Eligibility for EFMLA

Under this policy, full-time and part-time employees who have been on the Company's payroll for at least 30 calendar days, prior to taking the leave, are eligible for EFMLA.

Paid Benefits for EFMLA

The EFMLA provides for a combination of unpaid and paid leave as follows:

- The first two weeks of EFMLA is unpaid. However, the two weeks may be paid as EPSL if the employee has not yet exhausted EPSL for other reasons.
- After the first two weeks of EFMLA, employees are entitled to up to 10 additional weeks of job-protected leave to be paid at two-thirds the employee's regular rate of pay for the number of hours that the employee would otherwise be scheduled to work.
- Paid benefits for EFMLA will not exceed \$200 per day and \$10,000 in total, or \$12,000 in total if using EPSL for the first two weeks.

For employees with varying hours, one of the following two methods for computing the number of hours paid will be used:

- If the employee has worked 6 months or more for the Company, the average number of hours that the employee was scheduled per day over the 6-month period ending on the date on which the employee takes leave, including hours for which the employee took leave of any type.
- If the employee has worked less than 6 months, the expected number of hours to be scheduled per day as agreed upon at the time of hire, or if no such agreement was made, the average number of hours the employee was scheduled per day over the entire period of employment.

C. Notifying Company of the Need for FFCRA Leave

All employees requesting leave under this policy must provide written notice of the need for leave to their immediate manager **and human resources** as soon as practicable. Verbal notice will otherwise be accepted until written notice can be provided. Employees are required to provide reasonable notice for foreseeable uses, such as needing leave for school closures/childcare unavailability.

A request form indicating the specific qualifying reason and date of requested leave should be filled out. If an employee is incapacitated, the employee's representative should give verbal notice as soon as possible. Calling in "sick" does not qualify as adequate notice. An employee must provide sufficient information regarding the reason for an absence and complete the Request for Emergency Paid Sick Leave form for the Company to know that protection and benefits may exist under this policy.

D. Certification for FFCRA Leave

The Company will require certification to verify the qualifying reason for the leave to the extent permitted by applicable law. Employees should be prepared to provide documentation such as a copy of any quarantine or isolation order, or written note or email by a health care provider advising self-quarantine, or a notice of closure of school or childcare provider (e.g., email, notification on website, or news article). Employees should be prepared to provide additional information in support of various reasons for leave under FFCRA, such as the relationship of an

individual being cared for, a statement of circumstances that exists requiring care for a child over the age of 14, and affirming that there is no other suitable person who can care for the child during the requested leave.

We understand that requesting healthcare provider documentation may place additional burdens on our medical community during this pandemic. Therefore, if an employee is unable to obtain this documentation, at a minimum, the name, address, and phone number of your treating healthcare provider and dates of service must be provided. The Company also reserves the right to request additional documentation completed by your healthcare provider or childcare provider (as applicable) in situations where there is reason to believe an employee has fraudulently obtained leave or paid benefits.

E. Employee Benefits During Leave

While an employee is on leave pursuant to this policy, the Company will continue the employee's health benefits during the leave period at the same level and under the same conditions as if the employee had continued to work. Other employment benefits to which the employee contributes, such as group life insurance or disability plan, will also be continued during the leave, as long as the employee continues to pay any required contribution. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of premiums. During any unpaid portions of leave, the employee must continue to make payments for the employee's premium contributions, and such payment arrangements will be discussed with employees upon their request for leave.

F. Intermittent Leave

For employees working onsite, intermittent leave will only be permitted for the qualifying reason related to caring for their child whose school or place of care is closed, or childcare provider is unavailable, and only if the Company agrees to the schedule.

For employees working remotely, intermittent leave will be permitted if the employee is unable to work his or her normal schedule of hours. The employee and Company will come to an agreement on a schedule that provides for the least amount of disruption to an employee's job. For EFMLA purposes, the total amount of leave taken should not exceed the 12 weeks defined earlier in this policy.

G. Interaction Between Leave Entitlements

EFMLA is an emergency law expanding traditional FMLA and expires on December 31, 2020. If you qualify for leave under both EFMLA and traditional FMLA during the applicable 12-month period, the time off will count concurrently. You are not entitled to more than a total of 12 weeks under both EFMLA and traditional FMLA policies (except for qualifying military exigency leave of 26 weeks under traditional FMLA). Please contact **your manager** for further information concerning your rights and responsibilities under traditional FMLA.

(NOTE: The above paragraph should only be included in an employer's policy who has 50 or more employees and is covered by traditional FMLA.)

If EPSL is taken for the qualifying reason of caring for a child whose school or place of care is closed, or childcare provider is unavailable, that leave will run concurrently with, and will count toward, the total 12 weeks available under EFMLA [and traditional FMLA].

(NOTE: This bracketed language should only be included in an employer's policy who has 50 or more employees and is covered by traditional FMLA.)

H. Return from FFCRA Leave

An employee who takes leave under this policy may be reinstated to the same job or an equivalent position upon completion of the leave. If an individual has exhausted all leave under this policy and is still unable to return to work, the situation will be reviewed on a case-by-case basis to determine what rights and protections might exist.

Employees have no greater rights upon a return from leave than the individual would have had if the employee had continued to work. Therefore, an employee may be affected by a layoff, reorganization, furlough, change in job duties or other change in employment if the action would have occurred had the employee remained actively at work.

If the employee's reason for taking leave under this policy was to care for the employee's child whose school or place or care was closed, or whose child care provider was unavailable, and if the position the employee held before the leave started no longer exists due to economic or operating conditions that affect employment and are caused by the public health emergency related to COVID-19, and no equivalent position is available, then the employee will not be returned to employment. However, for the period of one year after qualifying leave under this policy ends, the Company will make reasonable efforts to contact the employee if an equivalent position becomes available.

(NOTE: The paragraph immediately above applies to and should only be included in policies for employers who have fewer than 25 employees.)