

Families First Coronavirus Response Act

Frequently Asked Questions

DETERMINING ELIGIBILITY

Q: *What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?*

A: The FFCRA's paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.

Q: *I have not been employed for 30 calendar days yet. Am I eligible for the Emergency FMLA leave?*

A: No. Employees must be employed for 30 calendar days to be eligible for the Emergency Family and Medical Leave Act expansion provisions.

Q: *Are all employees eligible for Emergency Paid Sick Leave, regardless of how long they have worked for the University?*

A: Yes, however, subject to the provisions relative to their particular status, i.e. full-time, part-time, etc.

Q: *Are the FFCRA paid sick leave and expanded family and medical leave provisions retroactive?*

A: No. The FFCRA begins April 1, 2020 and ends December 31, 2020.

Q: *When or how is it determined that I am going to need to use the leave under the FFCRA provisions?*

A: Employees will continue to work onsite, remotely or remain on call. At such time that an employee cannot satisfy any of these 3 conditions, then they would need to consider availing themselves of the FFCRA provisions or use vacation time in lieu of moving to a no pay status.

Q: *I have already used 6 weeks of FMLA leave to date, do I now have 12 more weeks under FFCRA if so eligible?*

A: No. Only the remaining unused balance of your 12-week eligibility would be available.

Q: *If I am on call at home and decline a request to either telework or report to the workplace because I am not comfortable with doing so, what happens?*

A: You will be required to report the time otherwise requested to work as vacation time or unpaid.

Q: *Are part-time employees covered under the FFCRA?*

A: Yes.

Q: *Are student workers and Graduate Assistants eligible for this leave?*

A: Yes. Student workers and GA's are covered under FFCRA only if they are actively performing their duties at the time of a qualifying event.

Q: *Are Extra Help employees eligible covered under the FFCRA?*

A: Yes, if actively working at the time of a qualifying event.

Q: *The FFCRA provides that employers of health care providers and emergency responders may elect to exclude these employees from coverage. If I fit the definition of a health care provider or an emergency responder am I excluded?*

A: No, however, The University reserves the right to exempt emergency responders and health care providers from any and all provisions of this Policy if the University determines that such exemption is necessary for the effective operation of the University.

Q: *Who is considered a Health Care provider?*

A: Health Care providers shall include all those individuals identified by the temporary rule established by the Department of Labor. Health care providers include but are not limited to anyone employed at the University who provides or assists in the provision of medical care including but not limited to Student Health Service, Counseling and Psychological Services, rehabilitation services and any employees who assist or perform duties related to the local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. In addition, health care providers include any employees who are involved in any way in the provision of the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments.

Q: *Who is considered an Emergency Responder?*

A: Emergency Responders include employees who are necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19, including but not limited to all employees of the Department of Public Safety. This would include Campus Police.

EMERGENCY PAID LEAVE

Q: *Does the paid leave time afforded by FFCRA get charged against my regular accrued or extended sick leave?*

A: No. Paid leave provisions under FFCRA are outside of employees' otherwise University-provided leave eligibilities.

Q: *Must I use my accrued leave prior to using the sick leave provided under FFCRA?*

A: No. The leave time and pay under FFCRA is not accrued and is immediately available.

Q: *If I am eligible for the 2/3 pay provision under FFCRA, can I supplement the 2/3 pay with my own accrued leave time to make it 100 percent?*

A: No. The 2/3 pay provision is attributable to a day's normal hours of work, i.e. 7.5 hours, 8 hours, etc. It would not be possible to charge additional personal accrued leave hours in

this equation. Employees would need to choose between receiving the 2/3 pay under FFCRA, or 100 percent by using their own accrued leave time.

Q: *May I take up to 80 hours of FFCRA paid sick leave for my self-quarantine and then another amount of FFCRA paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?*

A: No. You may take up to two weeks—or ten days— (up to 75 or 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 you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

Q: *If I am home with my child because his or her school or place of care is closed, or child care provider is unavailable, do I get paid FFCRA paid sick leave, expanded family and medical leave, or both—how might they interact?*

A: You may be eligible for both. In this kind of situation, the Emergency Paid Sick Leave Act could provide for an initial two weeks of paid leave at 2/3 pay. 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 you elect to use existing vacation, personal, or medical or sick leave. After the first ten workdays have elapsed, you will receive 2/3 of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Please note that you 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 your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

Q: *Is all leave under the FMLA now paid leave?*

A: 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 child care provider is unavailable, due to COVID-19 related reasons.

Q: *May I take my FFCRA expanded family and medical leave intermittently while my child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, if I am not teleworking?*

A: Emergency FFCRA paid sick leave for qualifying reasons related to COVID-19 must be taken both continuously and in full-day increments.

Q: *May I take my FFCRA paid sick leave intermittently while working at my usual worksite (as opposed to teleworking)?*

A: FFCRA paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

- You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- You are 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
- You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Once you begin taking paid sick leave for one or more of these qualifying reasons, you must continue to take paid sick leave each day until you either (1) use the full amount of paid sick leave or (2) no longer have a qualifying reason for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

If you no longer have a qualifying reason for taking paid sick leave before you exhaust your paid sick leave, you may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

Q: Can an employee take the 80 (or prorated number of hours) hours of FFCRA sick pay for their self-quarantine and then another amount of FFCRA sick pay for another reason provided under the Emergency Paid Sick Leave Act?

A: No. A full-time employee may take only up to two weeks—ten work days (80 hours)—of emergency paid sick leave for any combination of continuous qualifying reasons. A part-time employee may take emergency paid sick leave hours only up to their amount of work hours over an average two-week period for any combination of continuous qualifying reasons.

Q: How many Emergency Paid Sick Leave hours do part-time employees receive?

A: A number of hours equal to the number of hours that the employee works, on average, over a 2-week period.

APPLYING FOR LEAVE UNDER FFCRA AND DOCUMENTATION

Q: How much notice am I required to give the University prior to taking an EFMLAE leave?

A: In cases where foreseeable, as much advance notice as possible.

Q: *Do I still need to complete FMLA paperwork to receive leave under the Emergency and Family Medical Leave Expansion Act?*

A: Yes. An application specific to EFMLAE must be completed. Please use the provided link for the FFCRA Leave Request Form or notify Bonnie Brueggemann (bbruegg@siue.edu) to receive the appropriate paperwork.

Q: *Will documentation be required to establish my eligibility for the FFCRA leave provisions?*

A: Yes. Supporting documentation for leave may include the following: • Copy of the Federal, State or local quarantine or isolation order related to COVID-19 • Documentation by a health care provider advising employee to self-quarantine due to COVID-19 • Documentation by a healthcare provider designating employee as a qualified caregiver due to COVID-19 • Written notice of closure from employee's child(ren)'s daycare provider or school due to COVID-19. (Need for such notice of closure or unavailability from the employee's child's school, place of care, or child care provider, may be met by a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to the employee from an employee or official of the school, place of care, or child care provider.) For an employee's own medical condition, standard FMLA documents will be used.

INCOME TAX AND PENSION CONSIDERATIONS

Q: *Are FFCRA payments subject to taxes?*

A: Yes. We are still required to withhold federal and state income taxes and Social Security and Medicare taxes where applicable.

Q: *Are the payments made to employees under FFCRA considered earnings and subject to SURS withholding?*

A: For SURS purposes, emergency COVID-19 sick leave paid to employees as a result of the FFCRA would be treated the same as regular sick leave. As basic compensation, it would be considered earnings and is included in the Final Average Earnings calculation which is used in determining retirement benefits.

Q: *If I did not use the full additional 2 weeks of SIUE emergency COVID-19 sick leave does that get reported as unused/unpaid sick leave at retirement?*

A: No