FFCRA was signed by President Trump on March 18, 2020 and goes into effect on April 1, 2020 and will remain in effect until December 31, 2020. You can review the entire law here. The FFCRA contains several parts, two of which are addressed here: the Emergency Paid Sick Leave Act (EPSLA) and the Emergency Family and Medical Leave Expansion Act (EFMLEA). The following contains a brief summary of each, a set of Questions and Answers, and links to additional resources.

Emergency Family and Medical Leave Expansion Act (EFMLEA)
The first section of the FFCRA expands the federal Family and Medical Leave Act (FMLA). Until the end of 2020, the VSC will provide eligible employees with up to 12 weeks of expanded FMLA leave. The first ten days of EFMLEA leave are unpaid (but are effectively covered by the EPSLA – see below). Employees will then be paid at two-thirds (⅔) of their regular rate of pay for the remaining ten weeks.

**Which employees are eligible?**

Paid EFMLEA leave will be available to any employee who has been employed for at least 30 days and who is caring for his or her child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 related reasons. The eligible employee must be unable work, either in person or remotely, while on EFMLEA.

**How are employees paid during this time?**

First, employers are required to offer employees unpaid leave (or the employee may choose to use accrued paid leave or EPSLA leave) for 10 days. After this, employees will be compensated at two-thirds (⅔) of their regular rate (capped at a maximum of $200/day).

Emergency Paid Sick Leave Act (EPSLA)
The second leave provision of the FFCRA provides eligible employees with two weeks of emergency paid sick leave due to COVID-19.

**Which employees are eligible?**

The emergency FFCRA paid sick leave is available if an employee is unable to work (in-person or remotely) due to COVID-19 because the employee:

1. Is subject to federal, state, or local quarantine or isolation related to COVID-19;
2. Has been advised by their doctor to self-quarantine due to COVID-19;
3. Is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. Is caring for a family member subject to a quarantine order or self-quarantine;
5. Is caring for children if schools are closed or their caregiver is unavailable because of the COVID-19 health emergency; or
6. Is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services.

**How are employees paid during this time?**

Full-time employees can receive up to two weeks (80 hours) of paid sick leave, while part-time employees can receive paid sick leave based on the number of hours they would work during
an average two-week period. If an employee qualifies based on reasons 1, 2, or 3 above, they receive sick leave at their regular rate of pay (capped at a maximum of $511 per day and $5,110 total for ten workdays). If an employee qualifies based on reasons 4, 5 or 6 above, they receive paid sick leave at two-thirds their regular rate of pay (capped at a maximum of $200 per day and $2,000 total for ten workdays).

**How does this impact sick leave already provided that by an employer?**

This emergency paid sick leave is offered in addition to any existing sick leave and/or paid time off provided by an employer.

**Questions and Answers related to FFCRA**

1. **How is the VSC responding to the Families First Corona Response Act?**

The VSC has created a leave bank titled “FFCRA” for employees to request approval from their supervisor to take EPSLA or EFMLEA leave. Eligible employees who are unable to work for COVID-19 related reasons, as set forth above, may use FFCRA leave – this is separate and apart from any current paid leave that the employee may have accrued. In other words, employees may use FFCRA leave without depleting their existing leave balances for up to two weeks under EPSLA and for up to twelve weeks under EFMLEA. FFCRA leave is not retroactive and, thus, employees who have already used existing accrued leave balances for COVID-19 related reasons cannot use FFCRA to restore previously used leave balances.

Although the law provides that an employee be paid at two-thirds of their regular rate of pay if taking EPSLA leave for reasons four through six (see above), the VSC will pay employees 100% of their regular rate of pay. However, employees using EFMLEA leave will be paid at two-thirds of their regular rate of pay, up to the daily cap, consistent with the law.

2. **How do I request emergency paid sick leave under EPSLA?**

You will need to submit a leave request through UltiPro using the “FFCRA” leave type. In addition, you will need to complete a FFCRA request form (a draft copy of which is attached). The request form will be available on the portal. You may also be asked by your Director of Human Resources to submit additional documentation to support your request in the future. The law requires that leave requests be suitably documented.

Note: You will need to check the reason you are seeking emergency paid sick leave (i.e. one of the qualifying reasons listed above) on the form. FFCRA leave may only be used for a qualifying COVID-19 related reason. In other words, you cannot use FFCRA leave if there is no work for you to perform at the present time.

Approval to take FFCRA leave isn’t final until the request form has been approved by HR, regardless of whether your supervisor has approved your leave request in UltiPro. If your request is denied, any FFCRA leave used will be deducted from your existing sick leave balance, or other accrued paid leave if you have no remaining sick leave (and your FFCRA leave balance will be restored for future use).

3. **How do I request extended leave under EFMLEA?**

You will need to submit a leave request through UltiPro using the “FFCRA” leave type. In addition, you will need to complete a FFCRA request form (a draft copy of which is attached). The request form will
be available on the portal. You may also be asked by your Director of Human Resources to submit additional documentation to support your request in the future. The law requires that leave requests be suitably documented. As previously noted above, availability of EFMLEA leave is limited to those employees who have been employed for at least 30 days and who are caring for a child (or children) whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 related reasons.

Regular FMLA leave continues to be available to eligible employees to take unpaid, job-protected leave for specified family and medical reasons with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave. All existing certification requirements under the FMLA remain in effect if you take leave for one of the existing qualifying reasons under the FMLA. For example, if you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA as needed. If you have questions about FMLA, please reach out to your Director of Human Resources. See generally https://www.dol.gov/agencies/whd/fmla.

4. **When can I start to use FFCRA PTO? Do I have to use it all at once?**

This new law goes into effect April 1, 2020. You do not have to use it all at once but can, with permission, use it intermittently through December 31, 2020.

5. **Can I use FFCRA PTO if I can work remotely (telecommute)?**

Yes, provided it is used for a FFCRA-qualifying reason, such as quarantine, self-isolation or have family care needs related to COVID-19 illness. (You may telework if approved to do so by the College. If you are teleworking you will be compensated as normal – this has nothing to do with the paid leave provisions of the FFCRA).

6. **Can I use FFCRA PTO for a vacation day?**

No. The FFCRA PTO is specifically designed to support employees who are unable to work for qualifying COVID-19 reasons. If you wish to take a vacation day, you should follow the normal process for requesting vacation. Managers/supervisors have discretion to approve or deny requests to take accrued (non-sick) leave.

7. **How much paid sick leave will I receive under EPSLA? If I work less than 80 hours in a two week period, how is the amount of paid sick leave I may take calculated?**

For FFCRA purposes, anyone working less than 80 hours every two weeks is considered part-time and a part-time employee is entitled to leave for his or her average number of work hours in a two-week period. This is calculated based on the number of hours the employee is normally scheduled to work. For example, for Staff Federation employees this is typically 75 hours and, thus, Staff Federation employees will be able to take up to 75 hours of EPSLA leave for a qualifying reason.

If the normal hours scheduled are unknown, or if the part-time employee’s schedule varies, you may use a six-month average to calculate the average daily hours. Such a part-time employee may take paid sick leave for this number of hours per day for up to a two-week period and may take expanded family and medical leave for the same number of hours per day up to ten weeks after that. If the employee has not been employed for at least six months, the appropriate number of hours of leave may
be based upon the average hours per day the employee has been scheduled to work over the entire term of their employment.

8. **When calculating the amount of pay due to employees, must overtime hours be included?**

Yes. The EFMLEA requires an employee to be paid for the hours the employee would have been normally scheduled to work even if that is more than 40 hours in a week. However, the EPSLA requires that paid sick leave be paid only up to 80 hours over a two-week period. For example, an employee who is scheduled to work 50 hours a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week. In any event, the total number of hours paid under EPSLA is capped at 80. If the employee’s schedule varies from week to week, see the answer to No. 7 (i.e. the calculation of hours for a full-time employee with a varying schedule is the same as that for a part-time employee). However, the amount of pay does NOT include the shift differential for overtime hours under either EPSLA or EFMLEA.

9. **May I take 80 hours of paid sick leave for my self-quarantine and then another amount of paid sick leave for another reason provided under EPSLA?**

No. You 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 you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

Once you have exhausted your FFCRA leave, you will be required to use your accrued sick leave or other accrued leave balances. See Question 3 above for additional information on the Family and Medical Leave Act. If you have questions about your own serious health condition or that of an immediate family member and your options, please reach out to your Director of Human Resources.

10. **May I donate my FFCRA leave to another employee?**

No. There is no such provision under FFCRA and this leave is not covered by the VSC’s bargaining contracts or any provisions therein for donations of sick leave. However, employees may donate regular sick leave as provided for in a bargaining agreement or the VSC Personnel Handbook, whichever is applicable.

11. **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 sick leave, expanded family and medical leave, or both—how do they interact?**

You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You may take both paid sick leave and expanded family and medical 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. EPSLA 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 EFMELA 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 EFMLEA.
12. **Do I qualify for leave for a COVID-19 related reason even if I have already used some or all available leave under the Family and Medical Leave Act (FMLA)?**

If you are an eligible employee, you are entitled to paid sick leave under EPSLA regardless of how much leave you have taken under the FMLA. However, your eligibility to take EFMLEA depends on how much leave you have already taken during the 12-month period that the VSC uses for calculating FMLA leave. Please contact your Director of Human Resources if you have already taken FMLA in the past twelve months and have questions as to whether you are eligible to take EFMLEA leave. Similarly, if you take EFMLEA between April 1, 2020 and December 31, 2020, this will count towards your entitlement to take 12 weeks of FMLA in a 12-month period.

**RESOURCES**


Questions and Answers on FFCRA: [https://www.dol.gov/agencies/whd/pandemic/ffcra-questions](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)
FFCRA LEAVE REQUEST FORM

Employees who are eligible for the Emergency Paid Sick Leave Act (EPLSA) and/or the Emergency Family Medical Leave Expansion Act (EFMLEA) must complete this form a return to their campus HR Director for final approval.

SECTION I : EMPLOYEE INFORMATION

Employee Name:  
POSITION:  
College:  
CBA:  

SECTION II: TIME & REASON REQUEST

Anticipated Begin Date:  
Anticipated End Date:  

I am unable to work or telecommute for the following reason (check applicable):

☐ I am subject to federal, state, or local quarantine or isolation related to COVID-19
☐ I have been advised by a health care provider to self-quarantine due to concerns related to COVID-19
☐ I am experiencing symptoms of COVID-19 and is seeking a medical diagnosis
☐ I am caring for a family member subject to a quarantine order or self-quarantine
☐ I am caring for my children due to school closure or their caregiver is unavailable because of the COVID-19 health emergency
☐ I am experiencing substantially similar conditions as specified by the Secretary of Health and Human Services.
☐ I am also requesting use of Emergency Family Medical Leave Expansion Act related to the fact that I am caring for my children due to school closure or their caregiver is unavailable because of the COVID-19 health emergency.

SECTION III: EMPLOYEE AUTHORIZATION

☐ I am attaching documentation to support to use of EPLSA  
☐ I am attaching documentation to support to use of EFMLEA

(I understand that I may be required to provide additional documentation at a later date.)

Employee signature:  
Date:  

Employer Use Only

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