



M E M O R A N D U M

To: All Employees **Date:** April 3, 2020
File No.: 54:JO:hr

From: Jill O'Connell
Employment Development Department

Subject: FAMILIES FIRST CORONAVIRUS RESPONSE ACT

This memorandum is to provide information on the expansion of sick leave and the Family Medical Leave Act (FMLA) benefits due to the Families First Coronavirus Response Act (FFCRA). The Federal government enacted FFCRA which established both the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act effective April 1, 2020 to expire on December 31, 2020.

Emergency Paid Sick Leave Act (EPSLA)

Under the EPSLA, employees are entitled to two weeks of emergency paid sick leave for sick leave related to Novel Coronavirus 2019 (COVID-19) starting April 1 2020. Paid sick time for this purpose will be documented as Administrative Time Off (ATO) on an individual's timesheet. Any ATO provided to employees due to COVID-19 prior to April 1, 2020 does not count toward the EPSLA entitlement.

The Department of Labor [frequently asked questions](#) provides information on how this applies to those who are able to telework.

Specifically, employees can use the emergency paid sick leave if they are:

1. Subject to a Federal, State, or local quarantine or isolation order related to COVID-19
2. Advised by a health care provider to self-quarantine related to COVID-19
3. Experiencing COVID-19 symptoms and are seeking a medical diagnosis
4. Caring for an individual subject to an order described in #1 or self-quarantine as described in #2
5. Caring for their child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons
6. Experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services

The employee's time base determines the number of paid sick leave hours the employee is entitled to receive under EPSLA. Full-time employees receive up to 80 hours of paid

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

April 2, 2020

Page 2

sick leave at the employee's regular rate of pay. Part-time employees with a set time base receive a prorated amount based on their time base.

For intermittent employees, hours are calculated based on the average number of hours worked over the last six months to determine the average daily hour entitlement. If the individual has not worked six months, then calculate based on the number of hours the employer and employee agreed they would work each week upon hire.

Emergency Family and Medical Leave Expansion Act (E-FMLA)

E-FMLA allows for employees who have worked for 30-days with up to 12-workweeks of paid FMLA leave to provide care for their child whose school or daycare is closed because of COVID-19. . Employees do not have to have worked for the employer for 12-months or 1,250 hours in the 12-months preceding the leave to be eligible for E-FMLA.

Specifically, eligible employees can take up to 12-workweeks of leave. The first two weeks of E-FMLA are unpaid, although employees can elect to use their two weeks of paid sick leave discussed above. For weeks 3 to 12 of E-FMLA, employees will be paid two-thirds of their salary, up to \$200/per day up to a total of \$10,000. Employees can elect to use leave credits to supplement their E-FMLA. The maximum daily entitlement and overall total are the same regardless of the employee's time base.

E-FMLA utilizes the same 12-week entitlement as FMLA. Therefore, if an employee has used any of their 12-week entitlement under FMLA, the entitlement under E-FMLA will be reduced by the amount already used.

Required Documentation for E-FMLA

If leave under this program is foreseeable, an employee shall provide their employer with such notice of leave as is practicable. In order to take E-FMLA, employees must provide documents to support the need to care for a child whose school or place of care is closed due to COVID-19 related reasons. This may be a notice of closure or unavailability from the child's school, place of care, or child care provider. The notice may include a notice that may have been posted on a government, school or day care website, published in a newspaper or email to the parent from an employee or official of the school, place of care, or child care provider.

Supervisors must send ATO requests through their Division Chief to HRSD at SafetyProgram@edd.ca.gov via this [spreadsheet](#). This information must be tracked by HRSD and available to be provided to the California Department of Human Resources (CalHR).

FAMILIES FIRST CORONAVIRUS RESPONSE ACT

April 2, 2020

Page 3

Employees must clearly document on their timesheet in the comments section the leave that they are using (i.e., EPSLA, E-FMLA, etc.). Employees cannot be discharged, disciplined, or otherwise discriminated against based upon the use of EPSLA or E-FMLA leave.

The Department of Labor provides this [notice](#) with information on the rights explained above. Frequently asked questions related to the Families First Coronavirus Response Act can be found [here](#).

If you have trouble accessing any of the links above, please attempt to access them by copying and pasting the hyperlinks into the Google Chrome browser.

If you have any questions regarding this information, please contact your supervisor.

/s/ JILL O'CONNELL, Chief
Human Resource Services Division