

FFCRA and LWSD Emergency Health Leave: Paid Leave during COVID-19 closure

The Federal Government has recently passed the Families First Coronavirus Response Act (FFCRA). This act has gone into effect on April 1 and will be in effect until Dec 31, 2020. You cannot bank this leave, and this is an extended benefit as part of the new law. Guidelines are provided by the federal government and these answers are based on what we know today, but specific rules and information may continue to change/be updated. If an update or change occurs, we will keep you informed.

Terms

- FFCRA: Families First Coronavirus Response Act contains two separate acts relating to expanding Family Medical Leave (FMLA) and expanded emergency paid sick leave.
 - EPSL: Emergency Paid Sick Leave Act provides an expanded paid sick leave benefit.
 - EFMLEA: Emergency and Family Medical Leave Expansion Act lowers the threshold for qualifying for FMLA and offers a paid time in certain circumstances.
- Lake Washington School District Emergency Health Leave: a new, temporary category of paid leave for staff who have been diagnosed with COVID-19, have been quarantined by a public health official, or the employee's personal physician. LWEA and LWSD have agreed to meet in the summer of 2020 to reexamine the necessity of this leave moving into the fall.

For more information about these programs please see links:

- [DOL FFCRA](#)
- [LWSD Emergency Health Leave](#)

What does the creation of FFCRA mean for you?

- ❖ Generally, the FFCRA provides additional leave for LWEA members impacted by the COVID-19 Pandemic. This additional leave is above and beyond our locally bargained benefits and the options offered by Washington state. You are not required to use your LWSD accrued leave before using FFCRA leave.
- ❖ The FFCRA benefit is prorated by FTE, meaning if you are a 1.0 then you could qualify for 80 hours of Emergency Paid Sick Leave. If you are a .5 then you could qualify for 40 hours of Emergency Paid Sick Leave under the FFCRA.
- ❖ In addition, please read our information about Washington PFML that LWEA members can access: [PFML FAQ](#)

Qualifying reasons for FFCRA paid time, from the DOL document [DOL FFCRA](#). Under the FFCRA, an employee qualifies for paid time if the employee is unable to work (**or unable to telework**) due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19.

We will reference these numbers throughout the document. If you see a (number) mentioned below, please find its reference above.

Duration of Leave under FFCRA

- For reasons (1)-(4) and (6): A full-time employee is eligible for 80 hours of leave, and a part-time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.
- For reason (5): A full-time employee is eligible for up to 12 weeks of leave (two weeks of paid sick leave followed by up to 10 weeks of paid expanded family & medical leave) at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

How much compensation does the FFCRA guarantee?

- If you are requesting FFCRA leave under condition **(1)-(2), or (3)** above, you will receive your regular rate of pay, up to \$511 a day.
- If you are requesting FFCRA under condition **(4) or (6)**, you will be paid at 2/3 your regular rate of pay, up to \$200 per day, for a maximum benefit of \$2000. If you are requesting FFCRA under condition **(5)**, you will be paid at 2/3 your regular rate of pay, up to \$200 per day, for a maximum benefit of \$12,000 over 12 weeks.
- Amounts paid under (4), (5) or (6) are not reportable to Department of Retirement System (DRS).

Do I have to use my sick leave before using FFCRA leave?

No, you do not have to use your sick leave or apply for Washington State Paid Family Medical Leave before accessing benefits under the new FFCRA law.

How does this new leave work with my existing leave?

If you are sick or taking care of a family member who is sick from COVID-19 you can use your leave as follows:

- i. Complete the District's Request for Leave form (6059) and check the "other" box for type of request.
- ii. Write in either FFCRA leave or LWSD Emergency Health Leave (pending on your situation).
- iii. For reasons (1)-(4) or (6), describe the reason for the leave and attached a doctor's note or the name of the provider giving you direction.
- iv. For reason (5), provide the name of your child, the name of the school or childcare provider that has closed and a statement that no other suitable person is available to care for your child
- v. Submit the form to your supervisor who will initial and date the form.
- vi. If leave relates to reasons (1)-(4) or (6), send form to Lori Redeker in Payroll. If leave relates to reason (5), send the form to Bill Rosen in HR.
- vii. If you have exhausted the FFCRA leave, you can access the Lake Washington School District Emergency Health Leave.
- viii. Once you have exhausted your FFCRA and LWSD Emergency Health Leave, then you would need to access your sick leave or annual leave.

I do not have COVID but broke my leg (or have another non-COVID related illness) so I cannot work remotely at this time. Can I use this FFCRA leave?

No. FFCRA leave is not for general illness/injury, but for COVID related leave situations.

What is the childcare benefit with the FFCRA?

You can access paid time off to care for your child/children (who are under 18) under reason (5) of the new FFCRA.

- You can access 12 weeks of leave to care for your child because of a lack of childcare options. See below for the specifics from the Department of Labor.
 - Two weeks **(up to 80 hours)** of **paid sick leave** at two-thirds the employee's regular rate of pay because the employee is unable to work because of a bona fide need to care for an individual subject to quarantine

(pursuant to Federal, State, or local government order or advice of a health care provider), or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19, and/or the employee is experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor; and

- Up to an additional 10 weeks of **paid** expanded family and medical leave at two-thirds the employee's regular rate of pay where an employee, who has been employed for at least 30 calendar days, is unable to work due to a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.
- If you are using this new leave option for childcare, then you should apply for both the Emergency Paid Sick Leave and Emergency and Family Medical Leave Expansion. If you qualify based on the reasons above, this will give you access to 12 weeks of paid time off at 2/3 your daily rate.
- You do not have to use your annual leave first before taking the childcare leave under FFCRA.

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 the Emergency Paid Sick Leave Act?

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. If you have used your federal benefits, you can then access your district offered benefits or Washington state PFML.

If I am home with my child because their 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 FFCRA provided paid sick leave and expanded family and medical leave to care for your 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 at 2/3 of your regular rate of pay up to \$200 per day. 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 under your employer's policy. You will receive 2/3 of your regular rate of pay up to \$200 per day 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.

Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the Family and Medical Leave Act (FMLA)?

If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

- Your eligibility for expanded family and medical leave depends on how much leave you have already taken during the 12-month period that your employer uses for FMLA leave. You may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period.
- If you have taken some, but not all, 12 workweeks of your leave under FMLA during the current 12-month period determined by your employer, you may take the remaining portion of leave available. If you have already taken 12

workweeks of FMLA leave during this 12-month period, you may not take additional expanded family and medical leave.

- For example, assume you are eligible for preexisting FMLA leave and took two weeks of such leave in January 2020 to undergo and recover from a surgical procedure. You therefore have 10 weeks of FMLA leave remaining. Because expanded family and medical leave is a type of FMLA leave, you would be entitled to take up to 10 weeks of expanded family and medical leave, rather than 12 weeks. And any expanded family and medical leave you take would count against your entitlement to preexisting FMLA leave.
- If you take the expanded FMLA benefit now, it could impact your ability to take FMLA benefits within a 12-month period.

Who will cover my class if I take this new leave?


We do not currently have an agreement about coverage for remote work. We are engaging with LWSD on this topic thoughtfully, while we navigate this uncertain time. We do have an agreement that our district will pay long term subs who are currently covering a position.

A graphic of options for accessing paid leave during COVID-19 closure is on page 5.

Unemployment resources

- If you know someone who needs unemployment or support for accessing unemployment, here are some resources. State and federal expansions make unemployment insurance available to almost anyone who has lost work or opportunity because of coronavirus.
- This includes people laid off from full- or part-time work, who did gig work, or are working a reduced schedule can apply now.
- The latest action by Congress means that self-employed people will be able to apply soon, and benefits for everyone will increase by \$600 per week through July. Apply at <https://www.esd.wa.gov/>
- If you or anyone else gets denied a state leave or cannot access unemployment insurance, please find the following resources:
 - o Unemployment Law Project: <https://unemploymentlawproject.org/>
 - o State Labor & Industries, <https://bit.ly/3bJwTKL>
 - o Washington State Employment Security Department, [esd.wa.gov](https://www.esd.wa.gov)
 - o City of Seattle Office of Labor Standards, [seattle.gov](https://seattle.gov/olstandards)
 - o Fair Work Center, 844-485-1195
 - o Northwest Justice Project, in King Co call: 211; outside King Co: 888-201-1014
 - o [Washingtonlawhelp.org](https://www.washingtonlawhelp.org)

Graphic of options for accessing paid leave during COVID-19 closure

Situation	Optional order of use 		
For an Individual who gets sick because of COVID-19 (1-3)	2 Weeks or 80 hours (if 1.0 FTE) of Federal Emergency Paid Sick Leave at Full Pay or up to \$511 a day	<ul style="list-style-type: none"> • LWSD Emergency COVID-19 Leave (14 Calendar Days) OR • Washington State Paid Family Medical Leave Program (up to 12 weeks) 	Accrued Sick or Annual Leave from LWSD
For a person who gets sick and then needs to care for a sick child/family member because of COVID-19 (4-or 6) *Please reach out to LWEA if you have questions about how to use this leave for your unique situation.	For your own illness , 2 weeks or 80 hours (if 1.0 FTE) of Federal Emergency Paid Sick Leave at Full Pay or up to \$511 a day. AND/OR LWSD Emergency Health Leave (14 Calendar Days). To care for a sick child or family member , following your own illness please see the next box to the right.	<ul style="list-style-type: none"> • If you have not accessed FFCRA emergency paid sick leave for yourself, then you can apply for the 80 hours to care for your sick child or family member. (80 hours max: either for your care OR care of a family member, this is a onetime benefit). (Care for your child/family member falls under Reason 4, is paid at 2/3 your daily rate or \$200 per day). OR • Washington State Paid Family Medical Leave Program (up to 12 weeks). 	Annual or Sick Leave from LWSD <i>You can use your sick leave to care for a sick child or family member as defined by the CBA.</i>
Caring for a child because of a lack of childcare (5)	2 weeks or 80 hours (if 1.0 FTE) of Federal Emergency Paid Sick Leave at 2/3 your daily rate of pay up to \$200 a day.	<ul style="list-style-type: none"> • 10 weeks of expanded Family Medical Leave at 2/3 pay up to \$200 per day. This is only if your childcare provider is not available. 	Annual Leave from LWSD