

**Families First Coronavirus Response Act
Emergency Paid Sick Leave Act
&
Emergency Family and Medical Leave Expansion Act**

New Frequently Asked Questions AS of May 2020

Q.1. How much sick leave can an employee use to care for family members during COVID-19?

Under COVID-19, employees may use up to 9 days of sick leave (if available) to care for a family member who is quarantined or to care for their child/children due to school/childcare closures.

Q.2. Can employees use sick leave to care for a child who is not sick?

Employees may use their Emergency Paid Sick Leave (EPSL) to care for a child of the employee (*refer to Q.8 and Q.17 of 4/9/20 FAQ*) if the school or place of care has been closed, or the childcare provider is unavailable, due to COVID-19 precautions.

Q.3. Can employees use sick leave to supplement EPSL?

Yes, employees may use their sick leave to supplement EPSL.

Q.4. Can employees work intermittently if they have requested EPSL for one of the following reasons?

- (1) *I am subject to a Federal, State, or local quarantine or isolation order related to COVID-19.***
 - *I am in isolation or quarantine due to illness/exposure to COVID-19.***
 - *I am in a high-risk category (e.g. age 65+, underlying health conditions).***
 - *I currently perform non-essential governmental functions and I am subject to a Shelter in Place Order and not yet assigned to other essential governmental work.***
- (2) *I have been advised by my health care provider to self-quarantine due to COVID-19***
- (3) *I am experiencing symptoms of COVID-19 and seeking a medical diagnosis.***
- (4) *I am caring for an individual who is subject to an order.***

Employees can only work on an intermittent basis if 1) they are teleworking 100% and only for reasons 1 to 4.

Q.5. Can employees request and use their two (2) weeks of EPSL for reasons 1 thru 4, and after exhausting their two (2) weeks, request the full 12-weeks of EFMLEA to

care for their child/children due to school/childcare closure during the same date range?

Yes. EPSL and EFMLEA would not run concurrently if the employee did not request EPSL to care for their child.

Q.6. If I use up my entire two (2) weeks of EPSL for reasons 1-4, then need to request EFMLEA to care for my child/children, how will I get paid for the first two (2) weeks of unpaid EFMLEA?

Employees may use their available leave accruals, otherwise the first two (2) weeks will be leave without pay.

Q.7. Can employees request EFMLEA for reasons in 1-4?

No, employees may only use EFMLEA when they are unable to work (on-site or telework) because they must provide care for their dependent child/children as a result of a school/childcare closure and there is no other suitable person to provide care for their child.

Q.8. Can employees apply for two (2) weeks of EPSL for reasons 1-4, and then also request EPSL to cover the first two (2) weeks of unpaid EFMLEA?

No, employees may only receive EPSL for a maximum of two (2) weeks. Once employees exhaust their two (2) weeks of EPSL, that time is no longer available for any other use.

Q.9. If an employee request EPSL and EFMLEA to care for the employee's child/children for the 12-week period, when does the 12 weeks begin for EFMLEA?

The 12 weeks of EFMLEA begin the same date as the EPSL. The EPSL (if available – not already used by the employee for any other COVID-19 covered reason) will cover the first two (2) weeks of pay that is unpaid under the EFMLEA.

Q.10. What can employees do if they need time off for their own health condition or to care for a family member with a serious health condition (child, spouse, parent) after they exhaust the two (2) weeks of EPSL?

Employees can apply for their benefits under the federal Family and Medical Leave (FML) Act.

Q.11. What documentation is required in order for employees to request FML for their own serious health condition or care for a family member, (child, spouse, parent) with a serious health condition?

The employee must provide a Certification of Health Care Provider Form completed by the employee's/family member's treating physician.

Q.12. What are employees' options when they exhaust their 12 weeks of FML, but need to take leave to care for their child/children due to school closures?

The employee may request a leave of absence due to COVID-19 from their Agency/Department. The employee would be able to use their own accrued leave. They may also contact Employment Development Department ([EDD](#)) to inquire about available benefits. .

Q.13. Employee is working from home, but their work is primarily driven by calls they receive from the public (e.g. responding to hazardous cleanup, trapping feral animals, etc.). When responding to calls, the employee goes to the call site or location of complaint and not in the office. Would these employees be eligible to use EPSL intermittently?

No. Employees can only use EPSL on an intermittent basis if they are strictly teleworking (working from home) and do not work on site or in the field. Employees also use EPSL intermittently due to childcare reasons (their child/children's school or place of care is closed due to COVID-19 precautions).

Q.14. If the employee is unable to telecommute what are the options for using EPSL?

Once the employee begins taking EPSL for one or more of such reasons noted in Q.4., 1-4 above, the employee must use the permitted days of leave consecutively until the employee no longer has a qualifying reason to take EPSL or the employee exhausts their EPSL.

Q.15. Can Retired Annuitants receive EPSL and/or EFMLEA?

Yes. However, we caution Retired Annuitants who take EPSL/EFMLEA that the use may impact their pension or be subject to penalties for receiving a benefit that is not based upon hours worked under state law. Therefore, our recommendation is for the Retired Annuitants to contact ACERA or CalPERS for information on any potential impact EPSL and/or EFMLEA may have on their pension benefits.

Q.16. Will FFCRA time affect County service time for the purpose of pension benefits?

So long as the leave is paid (excluding vacation buy time), employees will receive County service credit. Employees can contact ACERA for more information.

Q.17. When will employees be able to use the COVAL Leave?

The Salary Ordinance section [3-21.98](#) stipulates that COVAL Leave "will be made available on a date determined by the County." The County has not yet determined date of availability.

Q.18. What documentation is required for leave under EPSL or EFMLEA?

The completed FFCRA Certification Form (version 4 – copy attached).

Q.19. Are employee's benefits impacted by EPSL/EFMLEA?

Benefits are not impacted, provided the employee is on paid leave.

Q.20. Who authorizes intermittent leave?

The supervisor is responsible for authorizing intermittent leave and if approved, will work with the employee to determine the intermittent leave schedule.

Q.21. Is EPSL/EFMLEA taxable income?

Yes

Q.22. If a pregnant employee needs to care for their child due to school closure under EFMLEA, will this impact Pregnancy Disability Leave (PDL)/Family and Medical Leave Act (FMLA)/California Family Rights Act (CFRA) when she takes maternity leave?

Yes, EFMLEA and FML will run concurrently. However, EFMLEA will not impact PDL for pregnancy leave or CFRA for child bonding.

Q.23. If an employee is in a high-risk category and off work due to Shelter In Place, what are the employee's options after the two (2) weeks of EPSL is exhausted and they are unable to return to work?

If the employee is unable to return to work due to an illness, they may apply for FML. Otherwise, they may use their available leave accruals, if authorized. They may also contact Employment Development Department (EDD) to inquire about available benefits.

Q.24. If an employee is not sick but chooses to Shelter-In-Place, what are their options after the two (2) weeks of EPSL is exhausted?

The employee may use their available leave accruals, if authorized. They may also contact Employment Development Department (EDD) to inquire about available benefits.