



FFCRA Emergency Paid Sick Leave and Expanded FMLA Frequently Asked Questions

The information contained in this document is based on the current understanding of the FFCRA and is subject to change.

1. What is the Families First Coronavirus Response Act (FFCRA)?

The FFCRA is a federal Act that requires certain employers, including the City of Portland, to provide their employees with paid sick leave and expanded family and medical leave (FMLA) for specified reasons related to COVID-19, except that employers may exclude employees who are healthcare providers or emergency responders. These provisions will apply from April 1, 2020 through December 31, 2020.

Paid sick leave and expanded family and medical leave (FMLA) are not retroactive prior to April 1, 2020.

2. Am I eligible to receive paid leave under the FFCRA?

All employees of a covered employer can be eligible for FFCRA paid leave entitlements. For Emergency Paid Sick Leave, the employee must still be on the payroll.

For Expanded FMLA, in addition to the above, the employee must have been employed for at least 30 calendar days as of when the day that leave starts, provided it is on or after April 1, 2020.

3. What type of paid leave entitlements are available?

The FFCRA affords two types of paid leave entitlements – Emergency Paid Sick Leave and Expanded FMLA.

Emergency Paid Sick Leave provides up to 2 workweeks of paid sick leave for certain qualifying reasons. The maximum number of paid hours is equivalent to the number of hours the employee works on average over a two-week period.

The FMLA allows employees to take up to 12 workweeks of protected leave for qualifying reasons. The new law expands the FMLA for one additional qualifying reason for the employee to care for their child when their school or childcare is closed due to COVID-19. The first 2 weeks of leave under the qualifying reason for Expanded FMLA are unpaid, but an employee may use Emergency Paid Sick Leave (if not already used for a different qualifying reason) or their paid leave accruals to be paid. The remaining 10 workweeks of Expanded FMLA are partially paid or employees may choose to use their existing paid leave accruals.

4. What are the “qualifying reasons” that I can take leave for?

An employee is able to take Emergency Paid Sick Leave if the employee is unable to work, including unable to telework, because:

- the employee or an individual the employee is caring for is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;

- the employee or an individual the employee is caring for has been advised by a health care provider to self-quarantine related to COVID-19;
- the employee is experiencing COVID-19 symptoms and is seeking medical attention;
- the employee is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or
- the employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

An employee is able to take Expanded FMLA leave if the employee is unable to work, including unable to telework, because the employee is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 symptoms.

For FFCRA purposes, an “individual” is an immediate family member, roommate, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person in a quarantine or self-quarantine situation, and that individual depends on you for care during the quarantine or self-quarantine.

5. What documents do I need to provide to get paid sick leave or expanded FMLA leave?

Employees will need to complete and have their Supervisor sign a FFCRA Emergency Paid Sick Leave & Expanded FMLA Application to request paid leave entitlements. A link to the Application form can be found at: <https://www.portlandoregon.gov/bhr/article/758618>.

Completed applications should be submitted to the employee’s bureau FMLA Coordinator. A list of FMLA Coordinators by bureau, can be found at: <https://www.portlandoregon.gov/bhr/article/423838>.

Depending on the reason for leave, employees may be asked to provide supporting documentation, such as a note or letter from a health care provider or a statement from the employee caring for a child whose school or place of care is closed.

6. Oregon Governor Kate Brown has issued a stay-at-home order (Stay Home, Save Lives). Does this qualify as a Federal, State, or local quarantine or isolation order?

No, unless complying with the Governor’s stay-at-home order prevents the employee from working, including teleworking. See discussion under #14.

7. What is the amount of leave entitlement that I can be paid?

While the amount of Emergency Paid Sick Leave shown on the FFCRA poster indicates varying percentages of pay with daily caps, the City has elected to pay 100% of an employee’s regular rate of pay for this leave, up to two weeks (capped at 80 hours).

During weeks 3 through 12 of Expanded FMLA leave, an employee will be paid at 2/3 of their regular rate of pay, up to \$200 daily, or employees can choose to use their own paid leave accruals and receive their full pay.

8. Is the paid leave entitlement under the FFCRA deducted from my Sick Leave or other paid leave accruals?

No. Paid leave under the FFCRA is in addition to your earned paid leave accruals. Employees may choose to use Emergency Paid Sick Leave and/or Expanded FMLA paid leave entitlements prior to using their own paid leave accruals, or they can choose to use their own paid leave accruals.

9. Can I use my paid leave accruals to supplement or “top off” the amount of pay I receive while on approved Expanded FMLA leave?

No. However, in order to receive 100% of their pay, employees may choose to use their own paid leave accruals instead of receiving 2/3 of their regular rate of pay (up to \$200 daily) under the Expanded FMLA paid leave.

10. 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 Emergency Paid Sick Leave?

No. You may take up to two weeks, capped at 80 hours, of paid sick leave for any combination of qualifying reasons.

For the Emergency Paid Sick Leave, the maximum number of hours you may take is based on the equivalent number of hours that you work on average over a two-week period, but not more than 80 hours.

11. May I take my paid sick leave or expanded FMLA leave intermittently?

Yes. Before taking leave intermittently, though, this must be scheduled and requires your Supervisor’s written approval.

If you are not teleworking, intermittent leave may not be taken if you or someone you are caring for is subject to a government quarantine order or has been advised by a health care provider to self-quarantine, or you or someone you are caring for is experiencing COVID-19 symptoms and is seeking a medical diagnosis. 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.

12. I have already taken some FMLA leave this year for a different qualifying reason. Does Expanded FMLA provide me with an additional 12 weeks of leave entitlement?

No. The FFCRA only expands FMLA to include the one additional qualifying reason (for care of an employee’s child whose school or place of care is closed) and its related eligibility requirement (30 days of employment) for that one leave reason only, but no other changes were made to the existing FMLA administrative rules.

For example, if an employee has taken 6 weeks of FMLA leave due to a surgery and recovery this calendar year, then the employee would only have 6 weeks of FMLA entitlement remaining for paid leave benefits under Expanded FMLA leave.

13. Is all leave under the FMLA now paid leave?

No. The only type of family and medical leave that is paid is Expanded FMLA when such leave exceeds ten days. Expanded FMLA is limited to 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.

14. What does it mean to be unable to work, including telework, for COVID-19 related reasons?

You are unable to work if the City has work for you and one of the COVID-19 qualifying reasons set forth in the FFCRA prevents you from being able to perform that work, either at a City worksite or by means of telework.

If you and your Supervisor have agreed that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

If you are, or become, unable to perform your work, and you are unable to perform your work during the required hours because of one of the qualifying reasons, then you are entitled to take paid sick leave and/or expanded FMLA (as applicable). To the extent you are able to work or telework, paid sick leave and expanded FMLA is not available.