

State of Hawai'i
Department of Human Resources Development
Emergency Paid Sick Leave (EPSL)

Families First Coronavirus Response Act of 2020 (FFCRA)

The Families First Coronavirus Response Act requires the State to provide eligible employees: (1) public health emergency leave (PHEL) pursuant to the Emergency Family and Medical Leave Expansion Act (EFMLEA) and/or (2) emergency paid sick leave (EPSL) pursuant to the Emergency Paid Sick Leave Act (EPSLA). The State has issued this policy in a good faith effort to comply with this law and provide eligible employees with any mandated leave.

This policy is effective April 1, 2020 and will remain in effect until December 31, 2020.

APPLICABILITY

All State employees are eligible for this leave immediately upon hire.

Under U.S. Department of Labor's rules, Health Care Providers and Emergency Responders may be exempted from FFCRA leaves.

Health Care Providers:

A health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, Employer, or entity

Emergency Responders:

An emergency responder is anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the

facility. This also includes any individual whom the highest official of a State or territory, including the District of Columbia, determines is an emergency responder necessary for that State's or territory's or the District of Columbia's response to COVID-19.

DEFINITIONS

“Child care provider” is someone who cares for your child. This includes individuals paid to provide child care, like nannies, au pairs, and babysitters. It also includes individuals who provide child care at no cost and without a license on a regular basis, for example, grandparents, aunts, uncles, or neighbors.

“Place of care” means a physical location in which care is provided for your child. The physical location does not have to be solely dedicated to such care. Examples include day care facilities, preschools, before and after school care programs, schools, homes, summer camps, summer enrichment programs, and respite care programs.

“Public Health Emergency” means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

“School or place of care is closed” means that the physical location where your child received instruction or care is now closed. This is true even if some or all instruction is being provided online or whether, through another format such as “distance learning”.

“Son or daughter” is your own child, which includes your biological, adopted, or foster child, your stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child.

“Son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability.

“Unable to Work, including telework” means you are unable to work if your employer 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 under normal circumstances at your normal worksite or by means of telework.

REQUIREMENTS

- I. EP SL shall be provided to employees who are unable to work (or telework) for the following reasons:

- A. The employee is subject to a Federal, State or local quarantine or isolation order related to COVID-19.
- B. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
- C. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- D. The employee is caring for an individual who is subject to an order as described in I.A. or has been advised to self-quarantine as described in I.B.
- E. The employee is caring for a son or daughter (under 18 years of age or age 18 or older who is incapable of self-care because of mental or physical disability) whose school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19 precautions.
- F. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

II. Prohibited Acts

- A. The department may not require an employee to use other paid leaves provided by the State before the employee uses EPSL.
- B. The department may not require, as a condition of providing EPSL, that the employee search for or find a replacement employee to cover the hours during which the employee is using EPSL.
- C. The department shall not discharge, discipline, or in any other manner discriminate against any employee who:
 - 1. Takes leave in accordance with the EPSLA; and
 - 2. Has filed any complaint or instituted or caused to be instituted any proceeding under or related to the EPSLA (including a proceeding that seeks enforcement of the EPSLA) or has testified or is about to testify in any such proceeding.

III. Leave Entitlement

- A. Full-time employees will be entitled to 80 hours of EPSL. The cap is for the duration of the law. The utilization of 80 hours by an employee for any of the qualifying reasons exhausts their EPSL through December 31, 2020.
- B. Part-time employees will be entitled to the number of hours equal to the number of hours that such employee works on average, over a 2-week period. The total hours calculated is the maximum amount of EPSL available for part time employees. The utilization of the calculated hours by an employee for any of the qualifying reasons exhausts their EPSL leave entitlement through December 31, 2020.
- C. EPSL for qualifying reasons related to COVID-19 must be taken in full-day increments. EPSL cannot be taken intermittently if the leave is for reasons I.A., I.B., or I.C.. Employees must continue to take EPSL each day until the employee either (1) uses the full amount of paid sick leave or (2) no longer have a qualifying reason for taking EPSL. If employees no longer have a qualifying reason for taking EPSL before it is exhausted, the remaining paid sick leave may be taken at a later time, until December 31, 2020 if another qualifying reason occurs.
- D. EPSL for qualifying reason I.D., I.E., or I.F. may be taken in increments as long as the employer agrees and operations allow for intermittent use of EPSL.
- E. EPSL shall not carry over to the next calendar year (i.e., 2021).
- F. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.
- G. The employee must provide the appointing authority or designee with notice of the need for EPSL as soon as practicable. After the first workday (or portion thereof) an employee received EPSL, employees must follow reasonable notice procedures in order to continue receiving EPSL.

IV. Payment

A. For EPSL used for reasons I.A., I.B. and I.C.:

1. Compensation will be at their regular rate of pay.
2. In no event shall such paid leave exceed \$511 per day and \$5,110 in the aggregate.
3. An employee may elect to use accumulated vacation leave, sick leave or compensatory time to cover the remaining amount necessary to ensure 100% pay if the employee hits the \$511 per day cap.

B. For EPSL used for reasons I.D., I.E. and I.F.:

1. Compensation will be two-thirds (2/3) of the employee's regular rate of pay.
2. In no event shall such paid leave exceed \$200 per day and \$2,000 over a two-week period.
3. An employee may elect to use accumulated vacation leave, sick leave (if employee is caring for an individual, a total of 120 hours of sick leave must be maintained in accordance to State of Hawaii TDI policies) or compensatory time to cover the remaining amount necessary to ensure 100% pay if the employee hits the \$200 per day cap.

PROCEDURES

I. Employee

A. Completes Emergency Paid Sick Leave Request form.

B. Provides required documentation:

1. Notice of closure of school or place of care, or unavailability of child care provider as applicable such as a notice that has been posted on a school or day care website, notice published in a newspaper, or an email from an employee or official of the school, place of care or child care.

- a. For School Year (SY 2019 - 2020) Documentation is not required for the closure of Department of Education public schools.
 - b. For School Year (SY 2020 - 2021) Documentation is required to show School's Curriculum.
- 2. Physician's certificate that covers the period the employee was on sick leave in accordance with applicable CBA provisions or EO.
- C. Completes Application for Leave of Absence (G-1 request form).
- D. Submits forms to appointing authority or designee for approval.
- II. Supervisor
 - A. Reviews Emergency Paid Sick Leave Request form and ensures all attachments are enclosed.
 - B. Ensures compliance with requirements.
 - C. Notifies employee of form submission and advises employee they will be notified by HR Office of approval or denial.
 - D. Signs and dates Emergency Paid Sick Leave Request form and G-1 then routes to DHRO.
- III. Departmental Human Resources Office
 - A. Reviews Emergency Paid Sick Leave Request form and attached documentation.
 - B. Determines eligibility and compliance with FFCRA requirements.
 - C. Determines approval or denial of Emergency Paid Sick Leave Request form, signs and dates.
 - D. Notifies employee.

ENCLOSURE

Emergency Paid Sick Leave Request

State of Hawai'i
Department of Human Resources Development
Emergency Paid Sick Leave Request

Name: _____ Telephone No.: _____

Other Contact Information: _____

Job Title/Department/Location: _____

PART A – Emergency Paid Sick Leave for Self

Employees approved for Emergency Paid Sick leave for Self are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day.

1. I am requesting Emergency Paid Sick Leave for one of the following qualifying reasons:

- I am subject to a Federal, State, or local quarantine or isolation order 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 seeking medical diagnosis.
- I am experiencing substantially-similar conditions specified by the U.S Department of Health and Human Services.

2. Period of leave and total number of working hours being utilized for Emergency Paid Sick Leave:

Beginning: _____ Ending: _____

Total number of working hours: _____

3. Name of the government entity that issued the Quarantine or Isolation Order:

4. Name of the health care provider who advised the Employee to self-quarantine due to concerns related to COVID-19: _____

PART B – Emergency Paid Sick Leave to Care for an Individual

Employees approved for Emergency Paid Sick Leave to care for others are entitled to pay at two-thirds (2/3) their regular rate or two-thirds (2/3) the applicable minimum wage, whichever is higher, up to \$200 per day.

I am requesting Emergency Paid Sick Leave to care for an individual subject to a Federal, State or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine related to COVID-19

Period of leave and total number of working hours being utilized for Emergency Paid Sick Leave:

Beginning: _____ Ending: _____

Total number of working hours: _____

- I would like to use the following paid leave to supplement any remaining amount necessary to ensure 100% pay:
 - o Sick Leave Hours: _____
 - o Vacation Leave Hours: _____
 - o Compensatory Time Off Hours: _____

- Name of the government entity that issued the Quarantine or Isolation Order: _____

- Name of the health care provider who advised the Employee to self-quarantine due to concerns related to COVID-19: _____

PART C – Emergency Paid Sick Leave to Care for Child/ren

Employees may be eligible for up to 12-weeks of leave to care for a child whose school or place of care is closed or child care provider is unavailable for reasons related to COVID-19 under the Expanded FMLA. See EFMLA form for more information.

- I am requesting Emergency Paid Sick Leave to care for a child whose school or place of care is closed or child care provider is unavailable for reasons related to COVID-19 and no other suitable person is available to care for the child.

Beginning: _____ Ending: _____

Total number of working hours: _____

- I understand that I will be paid two-thirds (2/3) my regular rate of pay up to \$200/day.
- I would like to use the following paid leave to supplement any remaining amount necessary to ensure 100% pay:
 - o Sick Leave Hours: _____
 - o Vacation Leave Hours: _____
 - o Compensatory Time Off Hours: _____
- I understand that if I am eligible for EFMLA for this reason and I elect Emergency Paid Sick Leave to cover the 10-days of unpaid leave that I will have exhausted my Paid Sick Leave and will be counted toward my 12-week EFMLA/FMLA leave entitlement.
- I am requesting to take leave intermittently. Date(s) of intermittent leave: _____

1. Child/ren's Name: _____
2. Name of the school, place of care, or child care provider that has closed or become unavailable: _____

CERTIFICATION

I certify that I am unable to work or telework for the reason identified.

Employee's Signature	Print Name	Date
Supervisor's Signature	Print Name	Date
Administrator's Signature	Print Name	Date

Departmental Human Resources Section

- Employee Approved for Emergency Paid Sick Leave

Dates Approved: From _____ To _____
(not to exceed 80 hours)

- Employee Denied for Emergency Paid Sick Leave

- Non-qualifying reason
- Employee has exhausted 80 hours of Emergency Paid Sick Leave Entitlement
- Other: _____

Departmental HRO's Signature	Print Name	Date
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For Department Use Only

Calculation of FFRA Leave for Part-Time Employees Whose Request is Approved

For Part-Time Employees Who have Set Weekly Schedules

Determination of Available Hours Part-time Employees who work a Set Weekly Schedule		
A.	Enter the Total Number of Hours the Employee is Scheduled to Work Each Week	
B.	Multiply A by 2 and Enter that Number Here	
C.	If B is greater than 80, enter 80. Otherwise, enter number in B. This is the number of FFCRA Emergency Sick Leave hours available to employee.	
D.	Multiply C by 5. This is the number of FFCRA Expanded Family Leave hours available to employee.	

For Part-time Employees Whose Hours Vary

Determination of Available Hours Part-time Employees who work a Variable Schedule		
Calculate values for the six (6) months prior to date the FFCRA leave is to start. If employee worked less than six (6) months, calculate from date of hire.		
A.	Total Number of Hours Worked. Include any paid leave time such as Sick, Vacation, Holiday and Admin Leave.	
B.	Total Number of Calendar Days in the Period (6 months or less if worked less than 6 months). Include paid leave days such as Sick, Vacation, Holiday and Admin Leave.	
C.	Divide A by B. This is the average hours worked per day.	
D.	Multiply C by 14. This is the average hours worked in a 2-week period.	
E.	If D is greater than 80, enter 80. Otherwise, enter number in D. This is the number of FFCRA Emergency Sick Leave hours available to employee.	
F.	Multiply D by 5. This is the number of FFCRA Expanded Family Leave hours available to employee.	

PAYROLL CALCULATIONS (FOR PAYROLL USE ONLY):

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