



Does the Families First Coronavirus Response Act (FFCRA) Apply to You?

by Darcey McAllister, Principal Consultant, HRT Northwest, March 27, 2020

As companies try to keep up with the continually changing employment landscape in response to COVID-19, one of the biggest legislative impacts will be the FFCRA. The following decision tree will help you identify if/when it applies to your business and employees. *Note this is a summary only.*

For specific questions, please reach out to us.
 Seattle: (253)642-7372 | Portland: (503)250-2853

Part 1: Business Eligibility

Does My Business Need to Comply with FFCRA?

Are you a private employer or non-Federal government entity with less than 500 employees?	YES move to Part 2	NO FFCRA does not apply to you
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Part 2: Employee Eligibility

Do My Employees Qualify for Coverage under FFCRA?

1. Has the employee been isolated or quarantined due to COVID-19 by a Federal, state or local order (not Stay-At-Home Order)?	YES move to Part 3	
2. Has the employee been advised by a healthcare provider to self-quarantine due to conditions related to COVID-19?	YES move to Part 3	
3. Is the employee experiencing COVID-19 symptoms and seeking a medical diagnosis?	YES move to Part 3	
4. Is the employee caring for an individual subject to an order described in 1 or 2 above?	YES move to Part 3	
5. Is the employee caring for a child whose school or daycare is closed for reasons related to COVID-19?	YES move to Part 3	
6. Is the employee experiencing any other substantially similar conditions specified by the Secretary of Health & Human Services in consultation with the Secretaries of Labor and Treasury?	YES move to Part 3	
7. Is the employee needing leave for treatment for symptoms not related to COVID-19 (i.e. cancer, surgery, etc.)	NO FFCRA does not apply to you	
8. Is the employee subject to a Stay-At-Home order but does not meet a qualification in #1-6 above?	NO FFCRA does not apply to you	
9. Does this apply to employees laid off prior to April 1, 2020?	NO FFCRA does not apply to you	

Part 3: Emergency Paid Sick Leave (EPSL)

Am I Required to Provide EPSL?

(The FFCRA requires qualifying full-time employees to be paid 80 hours of sick leave (2 weeks). Part-time employees are prorated.)

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|---|-------------------------------------|---|
| 1. Does the employee meet a qualifying factor under FFCRA (outlined in Part 2 above)? | YES
move to next question | NO
FFCRA does not apply to you |
| 2. Is the employee able to work/telework? | NO
move to next question | YES
FFCRA does not apply to you |

3. How much do I have to pay eligible employees?

If the employee qualifies due to their own condition: EPSL is paid at their regular rate of pay capped at \$511/day (\$5,110 total over 2 weeks)

If the employee is caring for someone with COVID-19: EPSL is paid at 2/3rd their regular rate of pay capped at \$200/day (\$2,000 total over 2 weeks)

If the employee is caring for a child due to school closure: EPSL is paid at 2/3rd their regular rate of pay capped at \$200/day (\$2,000 total over 2 weeks)

Part 4: Expanded Family Medical Leave (EFML)

Am I Required to Provide EFML?

(The FFCRA provides 12 weeks of Expanded Family Medical Leave; 10 of which must be may require it to be paid. The first 2 weeks are unpaid and the employee may choose EPSL to substitute unpaid time off.)

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| 1. Does the employee meet a qualifying factor under FFCRA (outlined in Part 2, point 5 about caring for a child with a school closure above)?* | YES
move to next question | NO
FFCRA does not apply to you |
| 2. Has the employee worked for you for at least 30 calendar days? | YES
move to next question | NO
FFCRA does not apply to you |
| 3. Has the employee exhausted their regular 12 weeks of FMLA, based on the 12-month period your company uses to track eligibility? | NO
move to next question | YES
FFCRA does not apply to you |
| 4. Is the employee able to work/telework? | NO
move to next question | YES
FFCRA does not apply to you |

5. How much do I have to pay eligible employees?

If the employee is caring for a child due to school closure: EFML is paid at 2/3rd their regular rate of pay capped at \$200/day (\$10,000 in aggregate over 10 weeks.)

*Note that if an employee has COVID-19 or is caring for someone with COVID-19, EFML does not apply but regular FMLA may apply so you should review their case based against normal FMLA rules.

Note: There may be some exceptions to both the EPSL and EFML for employers with less than 50 employees if it jeopardizes their business as a going concern. Also, employers may exclude health care providers or emergency responders from provisions under the FFCRA. The IRS will provide a dollar for dollar tax credit for all wages paid under FFCRA.