



## Office of Congressional Workplace Rights

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### Families First Coronavirus Response Act: Paid Leave Requirements for Employing Offices in the Legislative Branch

The **Families First Coronavirus Response Act (FFCRA)** requires certain employers, including employing offices in the Legislative Branch, to provide covered employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Office of Congressional Workplace Rights (OCWR) administers and enforces the new law's paid leave requirements through the Congressional Accountability Act (CAA). The FFCRA provisions will apply no later than April 2, and they are effective through December 31, 2020.[\[1\]](#)

Generally, the FFCRA provides that employing offices must provide to **all covered employees**:

- *Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay* where the employee is unable to work because the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or
- *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 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.[\[2\]](#)

An employing office must provide to **covered employees that have been employed by the employing office for at least 30 days**:[\[3\]](#)

- *Up to an additional 10 weeks of **paid expanded family and medical leave** at 2/3 the employee's regular rate of pay* where an employee 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.[\[4\]](#)

Paid sick leave does not carry over from one year to the next.[\[5\]](#)

#### **Qualifying Reasons for Leave:**

Under the FFCRA, a covered employee qualifies for paid sick 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 child care 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 the Treasury.[\[6\]](#)

Under the FFCRA, a covered employee who has worked for the employing office for at least 30 days qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.[\[7\]](#)

An employee will be considered employed for at least 30 calendar days, and therefore eligible for leave under FFCRA, if the employee was: (1) laid off by the employer not earlier than March 1, 2020; (2) had worked for the employer for not less than 30 of the last 60 calendar days prior to the employee's layoff; and (3) was rehired by the employer thereafter.[\[8\]](#)

#### **Duration of Leave:**

**For reasons (1)-(4) and (6):** A full-time covered employee is eligible for up to 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 2-week period.[\[9\]](#)

#### **For reason (5):**

A full-time covered employee who has been employed for **at least 30 calendar days** by the employing office with respect to whom leave is requested is eligible for up to 12 weeks of 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.[\[10\]\[11\]](#)

A full-time covered employee who has worked for the employing office for **less than 30 calendar days** is eligible for up to 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 2-week period.[\[12\]](#)

#### **Calculation of Pay:**

**For leave reasons (1), (2), or (3):** covered employees taking leave shall be paid at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).[\[13\]](#)

**For leave reasons (4) or (6):** covered employees taking leave shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period). [\[14\]](#)

**For leave reason (5):**

- **Covered employees who have been employed for less than 30 calendar days** by the employing office with respect to whom leave is requested shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).
- **Covered employees who have been employed by the employing office for at least 30 days** by the employing office with respect to whom leave is requested shall be paid at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week period—2 weeks of paid sick leave followed by up to 10 weeks of paid expanded family and medical leave).[\[15\]](#)

**Employer Notice:** Each employing office must post in a conspicuous place on its premises a notice of FFCRA requirements.[\[16\]](#) A model notice is available at [OCWR.gov](http://OCWR.gov).

**Prohibitions:** Employing offices may not discharge, discipline, or otherwise discriminate against any employee who takes paid sick leave under the FFCRA and files a complaint or institutes a proceeding under or related to the FFCRA.[\[17\]](#)

**Penalties and Enforcement:** Employing offices in violation of the first 2 weeks' paid sick time or unlawful termination provisions of the FFCRA will be subject to the penalties and enforcement described in the Fair Labor Standards Act, as applied by the CAA. 2 U.S.C. § 1313. Employing offices in violation of the provisions providing for up to an additional 10 weeks of paid leave to care for a child whose school or place of care is closed (or child care provider is unavailable) are subject to the enforcement provisions of the Family and Medical Leave Act, as applied by the CAA. 2 U.S.C. § 1313.

The OCWR will observe a temporary period of non-enforcement for the first 30 days after the Act takes effect, so long as the employing office has acted reasonably and in good faith to comply with the Act. For purposes of this non-enforcement position, "good faith" exists when violations are remedied and the employee is made whole as soon as practicable by the employing office, the violations were not willful, and the OCWR receives a written commitment from the employing office to comply with the Act in the future.