



**HUMAN RESOURCES**  
— Work Here Thrive Here —

## ATTACHMENT “1”

### Frequently Asked Questions regarding the Families First Coronavirus Response Act (FFCRA) for the County of San Benito

**This document is subject to revisions as updates are received.**

**Last revised April 15, 2020**

#### **1. When does this new legislation take affect?**

The FFCRA’s paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020. The County will provide Paid Admin Leave through the pay period ending April 18, 2020 for absences that would otherwise qualify for the FFCRA paid leave provisions.

#### **2. What does the new legislation provide to me as an employee?**

The new legislation provides for two different benefits if you are eligible and unable to work or telework.

Job classifications for employees not eligible for FFCRA leave are set forth in Attachment 2. For those employees not eligible for the FFCRA, please see question 21 below.

**A. Emergency Family and Medical Leave Expansion (EFMLA)** - Provides up to 12 weeks of leave with partial pay if you are unable to work or telework because you are caring for a child or children under 18 who is home because of a school closure or childcare closure due to a public health emergency.

- Leave is available to employees who have been employed for at least 30 calendar days.
- The total amount of leave for FMLA per year remains at 12 weeks. If an employee has already used 12 weeks of FMLA, the employee will not be eligible for an additional 12 weeks.
- There is a 10 workday waiting period for benefits. An employee may use accrued paid leave balances during the wait period if they choose to do so, or may use the 80 hours paid leave provided under EPSL (see below).
  - On the eleventh workday, after exhausting the waiting period, employees are eligible for employer paid leave at the rate of 2/3 of an employee’s regular rate of pay, but not less than minimum wage.
  - If you take paid sick leave during the first two weeks of unpaid expanded family and medical leave, you will not receive more than \$200 per day or \$12,000 for the twelve weeks that include both paid sick leave and expanded family and medical leave when you are on leave to care for your child whose school or place of care is closed,

or child care provider is unavailable, due to COVID-19 related reasons. If you take employer-provided accrued leave during those first two weeks, you are entitled to the full amount for such accrued leave, even if that is greater than \$200 per day.

- B. Emergency Paid Sick Leave (EPSL)** – Provides 80 hours of employer paid sick leave for eligible full-time employees and pro-rated for part-time employees based on regular scheduled hours.

**Eligibility as Determined by the Federal Government for regular rate of pay, capped at \$511/day.**

- Employee is subject to Federal, State, or local quarantine or isolation order related to COVID-19. A state or local shelter in place order is considered an order for quarantine or isolation
- The employee has been advised or ordered by a health care provider to self-quarantine due to actual or potential exposure to COVID-19.
- The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis

**Eligibility as Determined by the Federal Government for 2/3 of the employee's regular rate of pay, capped at \$200/day, not less than minimum wage**

- The eligible employee is unable to work because they are caring for an individual who is subject to a Federal, State, or local quarantine or self-isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19 or is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- The employee is caring for a child or children under 18 who is home because of a school closure or childcare closure due to a public health emergency.
- The employee is experiencing any other substantially similar conditions specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

**3. If I am taking leave, how do I code my timesheet?**

**A. Leave under the FFCRA, how do I code my timesheet?**

Coding your timesheet is based on the type of leave you are taking. There are six criteria for FFCRA leave, as set forth below, and the code to use is indicated below.

3197- FFCRASICK-1,2,3 COVID 19

- 1) Subject to quarantine or isolation order;
- 2) Advised to self-quarantine by health care provider;
- 3) Has symptoms of COVID-19 and seeking diagnosis;

3198- FFCRASICK-4,5,6 COVID 19

- (4) Caring for individual who is under quarantine or isolation order or who has been advised to self-quarantine;
- (5) Caring for child if school or place of care/child care provider has been closed, due to COVID 19 precautions;
- (6) The employee is experiencing any other substantially similar condition.

3199- FFCRASICK +480NE NON-EXEMPT EXPANDED 2/3 \$12K 5 COVID5

FMLA Public Health Emergency Leave (Caring for child if school or place of care/child care provider has been closed, due to COVID 19 precautions - up to 12 weeks, or 10 weeks in addition to EPSL)

**B. Leave for Employees Exempt from FFCRA (List on attachment “2”)**

3196- FFCRASICK 80E EXEMPT COVID

**C. Coding for Time Worked, and Coding for Time Not Worked Prior to April 18, 2020**

**3100 (Regular time worked):** Use this code for any time you spend doing your regular work, whether in the office or from home.

**3100 (Regular time worked and Project Code COVID-19-Corona Virus):** For any work related to the emergency.

**3095 (Administrative/COVID-19):** Use this code for any hours in which you are able and available to work but are not actually working until April 18, 2020.

**4. Am I eligible for these benefits if I am working or teleworking?**

If you are continuing to perform your essential job functions, assigned training/special projects or assigned emergency duties, even if remotely for your regularly scheduled hours, then you will continue to receive your regular pay and are not eligible for these benefits. (If you are not working for reasons related to COVID-19, see the response to no. 2 above.)

**5. Am I eligible for these benefits if I am extra help?**

If you are an active extra help employee as of 4/1/2020 you will qualify for EPSL. If you were on the County's payroll (i.e., worked hours) for the 30 calendar days immediately prior to the day your leave would begin, you may qualify for EFMLA.

**6. What is the definition of a child?**

A "child" is defined by the FMLA regulations as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and "incapable of self-care because of a mental or physical disability" at the time FMLA leave is to commence. Further instructions on this definition may alter who qualifies as a "child" in the future.

**7. What documents do I need to give my employer to get paid sick leave or expanded family and medical leave?**

You are entitled to paid sick leave if you are unable to work or telework due to a qualifying reason related to COVID-19. You must provide documentation in support of the reasons for your paid sick leave to the extent required by law. The County may request such additional written documentation as may be specified in the future.

You may be requested to provide the name of the government entity that issued the order related to COVID-19 or the name of the health care provider who gave you advice to self-quarantine due to concerns related to COVID-19. The County may also require a statement from the employee that he/she is unable to work, and the reason.

You may be asked to provide documentation in support of your expanded family and medical leave taken to care for your child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19-related reasons. For example, this requirement may be satisfied with the name of the child being cared for, the name of the school, place of care, or child care provider that has closed or become unavailable, and a statement from the employee that no other suitable person is available to care for the child.

If you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA if required by your employer.

**8. If I qualify am I able to use these benefits intermittently?**

Intermittent leave must be agreed on by the employee's department and will be established on a case by case basis.

**9. If I qualify will I be able to supplement my accruals with the 2/3 benefits?**

Yes, you may supplement the unpaid (1/3) portion of your salary with any of your existing leave accruals, or with up to 80 hours of advanced sick leave, upon a written agreement with the County.

**10. While I am on EPSL and/or EFMLA will I accrue time towards any aspect of my employment?**

EPSL and EFMLA employer paid hours are a type of supplement benefit that will not count towards accruals, county service hours, probationary status, differentials, or other similarly situated employment aspects. However, please note that CalPERS is still reviewing how it will consider these hours for its purposes.

**11. If I qualify will I have to use all my accruals before utilizing these benefits?**

No, you do not have to exhaust current paid leave balances before using EPSL or EFMLA benefits.

**12. What if I am ill but it is not COVID-19 related?**

You will be required to utilize your sick leave accruals for absences due to illness or injury unrelated to COVID-19 or COVID-related situations per the Federal Regulations. If it is a serious health condition, please contact HR or your supervisor for our regular leave of absence forms.

**13. If I am currently on an unpaid or paid leave of absence, unrelated to COVID-19, can I use EPSL and/or EFMLA from the County during my current leave?**

No. This leave is provided by law for related COVID -19 reasons only.

**14. For childcare, can I get paid EPSL for the first two weeks and then get the 2/3 of my base pay under the EFMLA?**

If you qualify for both, yes.

**15. Do EPSL and EFMLA run concurrently?**

Yes, they can run concurrently or separately.

**16. If I am utilizing one of these paid leaves, will I still have health benefits?**

For the purposes of healthcare benefits, the employer paid hours under the FFCRA will count towards eligibility for insurances. You generally must continue to make any normal contributions to the cost of your health coverage.

If you have exhausted all your leave, including the advanced 80 hours of sick leave, the County will continue to pay County's portion of premium contribution towards Health Insurance while a Shelter in Place Order remains in effect, for the remainder of this fiscal year.

Employees would still be responsible for the employee's portion of the premiums for the insurance. However, if employee is unable to pay the employee's portion, the County will allow employee to defer payment of employee premiums for up to three months contingent upon a written repayment agreement.

**17. If I have already used my FMLA for this year, am I eligible for additional EFMLA under the new legislation?**

No, per Federal legislation you would not be eligible for EFMLA.

**18. If I do not use all my paid hours that I am qualified for under EPSL or EFMLA in 2020, can they be cashed out or rolled over to next year?**

No. The leaves are only in effect until December 31, 2020.

**19. Are there any caps or limits on the amount that the employer pays?**

Yes. There are caps based on the reasons for the leave or paid time as provided in the Federal Legislation. See question no. 2 above.

**20. Are there any job classifications that are ineligible for EPSL or EFMLA?**

Yes. The County has declared the job classifications set forth in Attachment "2" exempt from EPSL and EFMLA.

**21. If my job classification is exempt from EPSL or EFMLA, am I entitled to any additional leave related to COVID-19?**

Yes. The County has decided to grant each employee set forth in Attachment "2" up to 80 hours of alternative sick leave, which only may be used in the following instances:

<p><u>Conditions Covered:</u></p> <ul style="list-style-type: none"><li>• Advised to self-quarantine by health care provider or Public Health Officer;</li><li>• has symptoms of COVID-19 and seeking diagnosis;</li><li>• Is diagnosed with COVID-19</li></ul>	<p>Will be given 80 hours/prorated for part-time employees, starting April 19, 2020. Provided at <b><u>REGULAR RATE of pay</u></b>, but capped at \$511/day. May be used before/after any other leave entitled to.</p>
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**For more questions and answers regarding this legislation, please refer to:**  
**<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>**