

***Updated 04-27-2020.**

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

On March 18, 2020, President Trump signed the FFCRA into law. The FFCRA contains extensive provisions in response to COVID-19, including two new leave benefits for eligible employees described in detail below.

2. What are the effective dates for the FFCRA?

The FFCRA is effective April 1, 2020, and expires on December 31, 2020.

3. Who is covered by the FFCRA?

- a. Covered Employers:** Private entities or individuals with fewer than 500 employees and public agencies, including the State Personnel System (SPS), with at least one employee.
- b. Eligible Employees:**
 - **Emergency Paid Sick Leave (EPSL).** All employees (including OPS) of covered employers are immediately eligible for 80 hours of EPSL for specified reasons related to COVID-19.
 - **Emergency Family and Medical Leave Expansion Act (EFMLEA) Leave.** All employees (including OPS) who are employed by the covered employer for at least 30 calendar days prior to his/her request, are eligible to use EFMLEA leave. An employee is eligible for up to 12 weeks of sick leave under the EFMLEA (the first 10 days of which are unpaid unless the employee elects to use accrued paid annual leave, personal leave, and sick leave, including EPSL) to care for a child under certain circumstances related to COVID-19.

4. Are OPS employees eligible for EPSL under the FFCRA?

Yes. See Question 10 below for further details about administering FFCRA leave benefits for OPS employees.

5. What leave benefits does the FFCRA require SPS agencies to provide to employees?

The FFCRA requires agencies to provide EPSL which can be used for certain Qualifying Reasons (provided below in Question 7) related to COVID-19 and EFMLEA leave which can be used when the employee is caring for their child (under age 18) whose school or place of care is closed, or the child care provider of such child is unavailable, due to COVID-19 related reasons.

6. How many hours of EPSL are provided to employees under the FFCRA?

The FFCRA requires covered employers to provide eligible employees with up to 80 hours of EPSL which may be used by employees for all of the Qualifying Reasons under the FFCRA, which are listed in Question 7 below.

7. For what Qualifying Reasons can the EPSL be used?

1. When the employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19.
2. When the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. When the employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
4. When the employee is caring for an individual who is subject to an order to quarantine by a federal, state, or local authority related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
5. When the employee is caring for their child* (under age 18) whose school or place of care is closed, or the child care provider of such child is unavailable, due to COVID-19 related reasons.

*For a full definition of “child” see the definition of “son or daughter” provided by the U.S. Department of Labor [in the Frequently Asked Questions](#).

6. When the employee is experiencing any other substantially similar condition as specified by the federal Secretary of Health and Human Services in consultation with the Secretary of Treasury and the Secretary of Labor.

8. How should an employee record EPSL on their People First timesheet?

For all of the Qualifying Reasons, employees will enter Hours Type 0098 (Federal Sick Leave). The People First system will not allow employees to enter more than 80 hours of this leave type and hours may only be entered on the employee’s scheduled workday.

9. Do eligible salaried employees receive a prorated number of EPSL hours (Hours Type 0098) and EFMLEA (Hours Type 0097) if they are part-time?

Yes. For part-time salaried employees, EPSL (Hours Type 0098) and EFMLEA (Hours Type 0097) will be prorated based on the employee’s appointment FTE.

For employees hired after March 25, 2020 (based on the PAR completion date), agencies should process leave balance adjustments to ensure employees receive the correct number of EPSL hours (Hours Type 0098) and EFMLEA hours (Hours Type 0097) based on the employee's FTE. These balance adjustments are required only for personnel actions that are processed after March 25, 2020.

For all employees hired into People First on or before March 25, the initial mass load of leave balances being processed by People First will factor in the FTE for salaried employees and reduced set work schedules for OPS employees as described above.

10. Since OPS employees are covered by the FFCRA, how are the EPSL and EFMLEA hours prorated for these employees?

For OPS employees, the initial hours will be prorated based on their open enrollment measured hours or, if not measured, their estimated hours, for each appointment ID. If these calculations are not accurate for an OPS employee, please follow the instructions below to determine the correct hours for each leave type and process the appropriate leave balance adjustments in People First.

OPS employees on a standard work schedule: For all of the Qualifying Reasons as outlined in Question 7 above, the number of **EPSL** hours may be determined by using the number of hours the employee would otherwise be normally scheduled to work (e.g., if the employee works 20 hours per week, 20 hours x 2 weeks = 40 hours of **EPSL** in Hours Type 0098, Federal Sick Leave).

OPS employees who work less predictable hours: For all of the Qualifying Reasons outlined in Question 7 above, the number of **EPSL** hours may be determined by using the average number of hours the employee was scheduled per day over a six-month period (e.g., if the employee works an average of five hours per workday over six months, and works five workdays per workweek, the average hours worked for a two-week period will be five hours per workday x five workdays per workweek x 2 workweeks = 50 hours of **EPSL** in Hours Type 0098, Federal Sick Leave). If the employee did not work over a six-month period, then the number of EPSL hours is determined using the average number of hours per day that the employee had a reasonable expectation to work at the time of hire.

To calculate paid EFMLEA hours for weeks three through twelve in Hours Type 0097:

OPS employees on a standard work schedule: The number of **EFMLEA** hours may be determined by using the number of hours the employee would otherwise be normally scheduled to work.



OPS employees who work less predictable hours: Multiply the number calculated above for OPS employees who work less predictable hours for two weeks by five to determine how many hours an OPS employee is eligible to receive for the last 10 weeks.

11. What does the EFMLEA component of the FFCRA provide to employees?

Under the FFCRA, the current FMLA law is amended to allow employees to use EFMLEA leave when the employee is caring for their child (under age 18) whose school or place of care is closed, or the child care provider of such child is unavailable, due to COVID-19 related reasons.

12. Under the FFCRA, is the EFMLEA leave paid?

The first 10 days of leave under the EFMLEA is unpaid (although, employees may choose to supplement with EPSL provided by the FFCRA, or any other available accrued leave as identified above in Question 3) and the remaining ten weeks is paid at two-thirds of the employee's regular rate of pay.

13. How does the new law impact SPS employees who are currently on FMLA and have already used a portion of their FMLA hours prior to April 1, 2020?

Employees who are already, or have been, on FMLA prior to April 1, 2020, and have used some of their FMLA hours will be eligible for the additional EFMLEA Qualifying Reasons only to the extent they have remaining FMLA leave available for use during their 12-month deduction period.

14. How should an employee record this new type of EFMLEA leave on their People First timesheet?

For the first 10 days of this EFMLEA leave, the employee should use EPSL (Hours Type 0098) described above or any other type of paid leave they wish to use. For Qualifying Reason 5 in Question 7 above, an additional 10 weeks (10 weeks x 40 hours x 0.667 = 267 hours) of paid EFMLEA leave may be used under Hours Type 0097.

Eligible employees will enter two-thirds of their scheduled hours each workday on their timesheet using paid EFMLEA leave under Hours Type 0097 (Federal FMLA) for the additional 10 weeks. Employees may use annual leave, sick leave, personal leave, or donated leave to cover the other one-third of their scheduled hours to receive full pay. If employees do not have sufficient paid leave, they may use leave without pay for the remaining hours.



Note: The People First system will not allow employees to use EFMLEA (Hours Type 0097) for more than two-thirds of the employee’s scheduled hours for each workday and will not allow an employee to use more than 267 hours of this leave type through December 31, 2020.

Note: For OPS employees, to calculate the hours available for the additional ten weeks of leave provided under the EFMLEA, multiply the two-week total determined in Question 10 by five to determine the number of additional hours the employee is eligible for in EFMLEA (Hours Type 0097).

15. How are the 30 calendar days of employment calculated when determining eligibility for the EFMLEA?

The employee must be on an SPS agency’s payroll for 30 calendar days (e.g., April 13, 2020, to use leave beginning May 13, 2020) before being eligible for the EFMLEA to care for their child whose school or child care provider has closed due to COVID-19. This employee would, however, be immediately eligible for EPSL as of April 13.

Note: For employees who have not yet been on the agency’s payroll for 30 calendar days by April 1, 2020, the HR Office will need to determine the date the 30 calendar days of employment is met and then process leave balance adjustments to credit the employee with the 80 hours of EPSL (Hours Type 0098) and 267 hours of EFMLEA leave (Hours Type 0097).

If an employee moves from one SPS agency to another after April 1, 2020, the receiving agency will need to determine if the employee has used any of the allotted 80 and/or 267 hours at the prior agency and process leave balance adjustments to credit the employee with the appropriate remaining balances.

16. May SPS agencies exclude “health care providers” and “emergency responders” from the EPSL and EFMLEA benefits provided by the FFCRA?

On April 16, 2020, the Department of Management Services clarified that DMS EO 20-02 allows agencies to exclude “health care providers” or “emergency responders,” as defined by the federal Department of Labor, from a portion or all of the leave provided for in the FFCRA to the extent necessary to ensure the continued provision of mission-critical services in a manner that protects the health, safety, and welfare of both the public and of the employees of the agency. Agencies considering using this authority must evaluate and determine which of their agency positions fall under the [federal Department of Labor’s](#) definition of “health care provider” or “emergency responder” and whether any of those positions will be exempted from receiving EPSL and/or EFMLEA in accordance with the FFCRA and guidance issued by the Department of Labor.



If an agency exercises its authority to exclude any “health care providers” or “emergency responders” from the EPSL and/or EFMLEA, the agency must notify the Department of Management Services. Please provide that notification to the Division of State Human Resource Management.

- 17. The April 16, 2020, Clarification issued by the Department of Management Services provides that “[c]onsistent with the authority granted by the FFCRA, agencies may exclude “health care providers” or “emergency responders,” as defined by the federal Department of Labor, from a portion or all of the leave provided for in the FFCRA, to the extent necessary to ensure the continued provision of mission-critical services in a manner that protects the health, safety, and welfare of both the public and of the employees of the agency.” What is meant by “a portion or all of the leave provided for in the FFCRA”?**

To allow agencies the greatest flexibility to ensure that mission-critical staffing needs are met, an agency may permit its health care providers or emergency responders to receive:

- a. Both EPSL and EFMLEA;
- b. Only EPSL;
- c. Only EFMLEA;
- d. A portion of EPSL;
- e. A portion of EFMLEA;
- f. Any combination of the above; or
- g. Neither EPSL nor EFMLEA.

If the agency allows for EPSL, EFMLEA, or both leave benefits, the agency shall administer the benefit(s) in accordance with these FAQs.

- 18. If an agency excludes “health care providers” or “emergency responders” from the leave benefits provided by the FFCRA (EFMLEA and/or EPSL), can the leave be removed from the employees’ balances in People First?**

If an agency determines that it is necessary to remove or limit access to EPSL and/or EFMLEA hours prepopulated in People First for its “health care providers” or “emergency responders,” the agency can either choose to process the appropriate leave adjustments in People First to reduce the respective leave balances presented or request that People First perform a mass load to effectuate the changes. If requesting a mass load, please contact Nicole Cain at Nicole.Cain@dms.myflorida.com for assistance.

- 19. If an employee is on an extended work schedule that equates to an average of more than 40 hours per workweek (i.e., law enforcement officers, correctional officers, and firefighters), how many hours of paid EFMLEA leave is the employee eligible to receive?**



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The agency should take the average number of hours the employee is required to work each workweek and multiply it by the number of weeks the employee is eligible to receive EFMLEA. Any additional hours owed to the employee beyond the 267 hours (or prorated amounts for part-time employees) provided above will need to be given to the employee via leave balance adjustment or mass load.

- 20. The FFCRA allows employers to cap daily and aggregate payments to employees for EPSL and EFMLEA leave. Will the SPS cap the amount of pay per day as permitted by the FFCRA (i.e., \$511 per day for Qualifying Reasons 1-3 and \$200 per day for Qualifying Reasons 4-6)?**

No.

- 21. What are agencies required to post in their facilities concerning the employee rights available through the FFCRA?**

Agencies are required to display the poster published by the Department of Labor titled [Employee Rights: Paid Sick Leave and Expanded Family and Medical Leave Under the Families First Coronavirus Response Act](#).

In accordance with Department of Labor guidance, each agency must post the notice in a conspicuous place on its premises. An agency may satisfy this requirement by emailing or direct mailing the notice to employees or posting the notice on an employee information internal or external website.

- 22. What additional resources may agencies use to assist in administering the FFCRA?**

Additional resources are available online at [U.S. Department of Labor - Families First Coronavirus Response Act](#).

Note: In some instances, SPS agencies will be providing a greater benefit (as described above) than the Act requires.