EMPLOYEE WORKPLACE GUIDELINES
COVID–19 LEAVE | Families First Coronavirus Response Act (FFCRA)

This document explains how the new Families First Coronavirus Response Act (FFCRA) affects Lamar University (LU) employees. For more information or assistance, employees and supervisors should contact Bert Wagner, Assistant Vice President of Human Resources.

I am a supervisor. My employee returned from a cruise or travel and has no symptoms but feels it might be prudent to self-isolate for two weeks. What should I tell this employee?

Protecting community health is critical, and employees returning from cruises or travel may want to self-isolate. Consider asking your employee to work from home and keep a record of hours and tasks. If your employee’s job cannot be done from home, ask your employee to self-isolate and use sick leave if he or she has medical symptoms or has been instructed by public health officials to self-isolate. If the employee has no symptoms, vacation time can be used for the self-quarantine period.

What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?

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.

Are the paid sick leave and expanded family and medical leave requirements retroactive?

No. The university implemented COVID-19 flexible workplace practices and schedules in early March including remote work and telecommuting to provide for social distancing while continuing the essential work of running the university. Many employees have already adjusted their schedules and work locations in response to these new practices and may continue with these arrangements or consider these new leave options.

Which employees qualify for these paid leave benefits?

All Lamar University faculty, staff and student employees are eligible if they meet the specific criteria for each type of leave.

Does the “Shelter in Place” order by my county qualify for Emergency Paid Sick Leave as being “subject to a Federal, State, or local quarantine or isolation order”?

No. The quarantine or isolation order is intended to be from a medical authority for reasons that you individually may have been exposed to COVID-19.

I’m a part-time employee so how do I count hours worked for purposes of paid sick leave or expanded family and medical leave?

A part-time employee is entitled to leave for his or her average number of work hours in a two-week period. Therefore, calculate hours of leave based on the number of hours you are normally
scheduled to work. If the normal hours scheduled are unknown or varies, we will use a six-month average to calculate the average daily hours. A part-time employee may take paid sick leave for this number of hours per day for up to a two-week period; and may take expanded family and medical leave for the same number of hours per day up to ten weeks after that.

If this calculation cannot be made because you have not been employed for at least six months, we will use the number of hours that you and your supervisor agreed that you would work upon hiring. If there is no such agreement, we will calculate the appropriate number of hours of leave based on the average hours per day you were scheduled to work over the entire term of your employment.

As an employee, how much will I be paid while taking paid sick leave or expanded family and medical leave under the FFCRA?

It depends on your normal schedule as well as why you are taking leave.

If you are taking paid sick leave because you are unable to work or telework because you (1) are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; (2) have been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or (3) are experiencing symptoms of COVID-19 and are seeking medical diagnosis, you will receive your regular pay for each applicable hour.

In these circumstances, you are entitled to a maximum of $511 per day, or $5,110 total over the entire paid sick leave period.

If you are taking paid sick leave because you are: (1) caring for an individual who is subject to a Federal, State, or local COVID-19 quarantine or isolation order or an individual who has been advised by a health care provider to self-quarantine related to COVID-19; (2) caring for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; or (3) experiencing any other substantially-similar condition that may arise, as specified by the Secretary of Health and Human Services, you are entitled to compensation at 2/3 of your regular rate of pay.

Under these circumstances, you are subject to a maximum of $200 per day, or $2,000 over the entire two-week period.

May I take 80 hours of paid sick leave for my self-quarantine and then another amount of paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?

No. You may take up to two weeks—or ten days—(80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

If I am home with my child because his or her school or place of care is closed, or childcare provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both—how do they interact?

You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You
may take both emergency paid sick leave and expanded family and medical leave to care for your child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded family and medical leave. After the first ten workdays have elapsed, you will receive 2/3 of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Please note that you can only receive the additional ten weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for your child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons.

**Can my employer deny me this emergency paid sick leave if my employer gave me paid leave for a reason identified in the Emergency Paid Sick Leave Act prior to the Act going into effect?**

No. The Emergency Paid Sick Leave Act imposes a new leave requirement on employers that is effective beginning on April 1, 2020.

**Is all leave under the FMLA now paid leave?**

No. The only type of family and medical leave that is paid leave is expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act when such leave exceeds ten days. This only includes leave taken because the employee must care for a child whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons.

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

You must provide documentation in support of your paid sick leave such as note from a health care provider or other public health official.

You must also 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 may include a notice of closure or unavailability from your child’s school, place of care, or child care provider, including a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to you from an employee or official of the school, place of care, or child care provider.

Please also note that all existing certification requirements under the FMLA remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA. For example, 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.

**What does it mean to be unable to work, including telework for COVID-19 related reasons?**

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.
If you and your employer agree that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

May I take my paid sick leave intermittently while working at my usual worksite (as opposed to teleworking)?

It depends on why you are taking paid sick leave. Unless you are teleworking, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

1. You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
3. You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
4. You are caring for an individual who either is subject to a quarantine or 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
5. You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Unless you are teleworking, once you begin taking paid sick leave for one or more of these qualifying reasons, you must continue to take paid sick leave each day until you either (1) use the full amount of paid sick leave or (2) no longer have a qualifying reason for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

If you no longer have a qualifying reason for taking paid sick leave before you exhaust your paid sick leave, you may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

In contrast, you may take paid sick leave intermittently if you are taking paid sick leave to care for your child whose school or place of care is closed, or whose childcare provider is unavailable, because of COVID-19 related reasons. For example, if your child is at home because his or her school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you may take paid sick leave on Mondays, Wednesdays, and Fridays to care for your child, but work at your normal worksite on Tuesdays and Thursdays.

May I take my expanded family and medical leave intermittently while my child’s school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons, if I am not teleworking?

Yes, but only when you and your supervisor agree upon such a schedule. For example, if your employer and you agree, you may take expanded family and medical leave on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while your child is at home because...
your child’s school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, for the duration of your leave.

**If my employer reduces my scheduled work hours, can I use paid sick leave or expanded family and medical leave for the hours that I am no longer scheduled to work?**

No. If your employer reduces your work hours because it does not have work for you to perform, you may not use paid sick leave or expanded family and medical leave for the hours that you are no longer scheduled to work. This is because you are not prevented from working those hours due to a COVID-19 qualifying reason, even if your reduction in hours was somehow related to COVID-19.

You may, however, take paid sick leave or expanded family and medical leave if a COVID-19 qualifying reason prevents you from working your full schedule.

**May I collect unemployment insurance benefits for time in which I receive pay for paid sick leave and/or expanded family and medical leave?**

No. If your employer provides you paid sick leave or expanded family and medical leave, you are not eligible for unemployment insurance. However, each State has its own unique set of rules; and DOL recently clarified additional flexibility to the States (UIPL 20-10) to extend partial unemployment benefits to workers whose hours or pay have been reduced. Therefore, individuals should contact their State workforce agency for specific questions about eligibility. For additional information, please refer to [https://www.twc.texas.gov/](https://www.twc.texas.gov/).

**As an employee, may I use my employer’s leave entitlements and my FFCRA paid sick leave and expanded family and medical leave concurrently for the same hours?**

No. If you are eligible to take paid sick leave or expanded family and medical leave under the FFCRA, as well as paid leave that is already provided by your employer, you must choose one type of leave to take.

**Who qualifies as a son or daughter?**

Under the FFCRA, a “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. For additional information about in loco parentis, see Fact Sheet #28B: Family and Medical Leave Act (FMLA) leave for birth, placement, bonding or to care for a child with a serious health condition on the basis of an “in loco parentis” relationship.

Also under the FFCRA a “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. For additional information on requirements relating to an adult son or daughter, see Fact Sheet #28K.

**Can I use expanded family and medical leave to care for my grandchild?**

No, unless the child meets the definition of “son or daughter” described above.
If I take paid sick leave under the Emergency Paid Sick Leave Act, does that count against other types of paid sick leave to which I am entitled under my employer’s policy?
No. Paid sick leave under the Emergency Paid Sick Leave Act is in addition to other leave provided under your employer’s existing policy.

What is a full-time employee under the Emergency Paid Sick Leave Act?
For purposes of the Emergency Paid Sick Leave Act, a full-time employee is an employee who is normally scheduled to work 40 or more hours per week.

In contrast, the Emergency Family and Medical Leave Expansion Act does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week will affect the amount of pay the employee is eligible to receive.

What is a part-time employee under the Emergency Paid Sick Leave Act?
For purposes of the Emergency Paid Sick Leave Act, a part-time employee is an employee who is normally scheduled to work fewer than 40 hours per week.

In contrast, the Emergency Family and Medical Leave Expansion Act does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week affects the amount of pay the employee is eligible to receive.

How do I request either of these leaves?
Discuss the need for leave with your supervisor. A new request form is under development to be accessed using Employee Self-Service in the SAP Portal. An announcement will be made as soon as the form is ready for use.

Can I use my regular sick leave when I’m needed to care for my child due to school or day care closing?
No. This was a policy exception and was only available through March 31, 2020. Employees should now utilize the EFMLA leave for this purpose.

I am an exempt employee. May I substitute State Compensatory Time for the reduced pay provided under this law?
Yes, but you must still adhere to the policy of no more than three consecutive workdays at one time and have your supervisor’s approval.

If I receive 2/3 pay for the period I’m off taking care of my child due to child care closing, can I use my accrued leave to make up the 1/3 difference in pay?
No. You must use the new leave benefit at 2/3 pay or can choose to use your accrued leave instead (but not regular sick leave).