Frequently Asked Questions Regarding the Families First Coronavirus Response Act (FFCRA) for the County of Sonoma


PLEASE NOTE: These are general instructions and guidelines as of the listed date. The County reserves the right to update or change this document to provide further clarity, to comport with any changes in interpretation of the FFCRA, and/or to determine different emergency pay provisions after the effective dates expire or as needed as additional clarity is received from US Department of Labor or counsel regarding this law. The benefits under the FFCRA and other regulations are new, untested and subject to ongoing adjustment by the Department of Labor and the IRS and may necessitate changes to the County administered program. Please contact your department Payroll Clerk regarding specific situations which fall outside of the provided guidance, and your Payroll Clerk will work with Auditor Payroll arrive at a solution. Thank you for your attention and understanding.

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. New pay codes and labor level 7 (LL7) timecard codes will be input for use for the pay period beginning 4/7/2020.

2) What does the new legislation provide to me as an employee?

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

A. Emergency Paid Sick Leave (EPSL) – Provides 80 hours of employer paid sick leave for full-time employees and pro-rated for part-time and extra-help employees based on a six month lookback of actual hours. EPSL Qualifying Reasons (QR) are as follows:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 (Intended for individuals for whom work is available, but who are unable to telework, and who are quarantining/isolating after overseas travel, or are in a high-risk group and cannot work because they must isolate.)

2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.

4. The employee is caring for an individual who is subject to an order in QR #1 or quarantine/isolation described in QR #2, related to COVID-19.

5. The employee is caring for a son/daughter of the employee and the school or place of care of the son/daughter has been closed or the childcare provider is unavailable due to the COVID-19 public health emergency (and there is no other suitable person available to care for the child during such leave).

6. Employee is experiencing similar conditions specified by the Secretary of Health and Human Services.
**B. Emergency Family and Medical Leave Expansion (EFMLEA) -** Provides up to 12 weeks of leave with up to 10 week of partial pay if work is available and you are unable to work or telework because you are caring for a child or children under 18 who are 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 at the time of application for benefits.
- The total amount of protected leave under the Family and Medical Leave Act (FMLA) per calendar 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 under EFMLEA. FMLA/EFMLEA leave is administered on a rolling 12 month calendar, so employees may become eligible for EFMLEA in the future. In no event will FMLA exceed 480 hours. EFMLEA provisions expire 12/30/2020.
- There is a 2 week waiting period to receive EFMLEA pay benefits. An employee may use EPSL or accrued paid leaves during this time. Once EPSL is exhausted and sick leave hours are used down to 40 hours and a combination of vacation/comp hours are used down to 40 hours (as specified in the MOU or Salary Resolution), the employee may elect to continue to use down their leave balances or use Leave Without Pay (LWOP). Please see updated payroll matrix for details. Copies of current union MOU and the Salary Resolution are posted on the County’s HR website: [http://sonomacounty.ca.gov/HR/Employee-Relations/Labor/](http://sonomacounty.ca.gov/HR/Employee-Relations/Labor/)
- After the waiting period, employees are eligible for EFMLEA at the rate of 2/3 of the employee’s regular daily hours, to the extent they have FMLA hours available. Employee can choose to supplement the 2/3’s pay with EPSL or accrued paid leaves to reach their FTE (or average daily hours for eligible extra-help employees), or to receive only the 2/3 pay. Once EPSL is exhausted and sick leave hours are used down to 40 hours and a combination of vacation/comp hours are used down to 40 hours (as specified in the MOU or Salary Resolution), the employee may elect to continue to use down their leave balances or use Leave Without Pay (LWOP). Please see updated payroll matrix for details. Copies of current union MOU and the Salary Resolution are posted on the County’s HR website: [http://sonomacounty.ca.gov/HR/Employee-Relations/Labor/](http://sonomacounty.ca.gov/HR/Employee-Relations/Labor/)
  
  i. For a full-time employee who has not used any FMLA within the last 12 months, a total of 480 hours of FMLA protected leave is available to be used for QR #5 in conjunction with EPSL and EFMLEA benefits.

  1. It is expected that the employee will use 80 hours of EPSL or accrued leaves during 80 hours of the FMLA protected leave (typically during 2 week waiting period).

  2. EFMLEA 2/3’s pay benefits will total up to 266.7 hours (400 hours x 2/3 = 266.7 hours). These hours will be placed into a new EFMLEA bank for use on the employees’ timecard.
3. Employee may elect to supplement the remaining 133.3 hours of FMLA protected hours with accrued leaves.

4. Payroll Clerk will record FMLA when used for QR #5 for all EPSL, EFMLEA paid leave, use of accruals to supplement pay and LWOP hours.

3) 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. EPSL and EFMLEA benefits are for those employees for whom work is available, but they are unable to work or telework due to COVID-19 reasons, including loss of child care (QR #5).

4) Am I eligible for these benefits if I am extra help?
   - If you are an active extra help employee as of 4/1/2020 and are scheduled to work, you may qualify for EPSL.
   - If you were on the County’s payroll (i.e., worked hours) for the 30 calendar days immediately prior to the date you apply for leave, and are scheduled to work, you may qualify for EFMLEA.

5) What is the definition of a child?
   - A “child” is defined under the Family and Medical Leave Act (FMLA) 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.

6) What documents do I need to give my employer to get EPSL or EFMLEA?
   - You are entitled to EPSL if you are unable to work or telework due to a qualifying reason related to COVID-19. You must complete the **FFCRA Leave Request Form** and identify your qualifying reason. The form is located on the County’s Employee Resources page, or available from your department payroll clerk.
   - You are entitled to EFMLEA if you are unable to work or telework due to QR #5, because your dependent child’s school or daycare facility was closed, or caregiver was not available, due to COVID-19-related reasons. You must complete the **FFCRA Leave Request Form** and identify your qualifying reason.

7) If I qualify, am I able to use these benefits intermittently?
   - Yes. Intermittent use is available for both EPSL and EFMLEA. For EFMLEA the intermittent leave must be mutually agreed upon with the employee’s manager/supervisor.
8) If I qualify for the 2/3 pay under EFMLEA, how do I get to 100% pay?

- Employees are required to either elect to supplement their EFMLEA benefit with EPSL and/or accrued leaves or elect to not supplement their EFMLEA benefit with EPSL and/or accrued leaves. An employee may change their election when new pay guidance is provided. During this COVID-19 public health emergency, accrued sick leave use has been broadened to include situations where an employee is unable to work due to QR #5, (leave taken to care for your child whose school or daycare is closed, or caregiver is unavailable, due to COVID-19-related reasons).

9) While I am on EPSL and/or EFMLEA will I accrue time towards aspects of my employment?

- EPSL and EFMLEA employer paid hours are a type of supplement benefit that will count towards accruals, and county service hours for merit, and layoff seniority. Probationary employees may have their probationary periods extended if their leave exceeds 160 hours for a 6-month probationary period, or 320 hours for a 1-year probationary period.
- EPSL and EFMLEA paid hours are subject to retirement contribution deductions as prescribed by Sonoma County Employee Retirement Association.
- EPSL and EFMLEA paid leave benefits are not counted toward non-statutory overtime.
- Unused EPSL hours expire after 12/31/2020.

10) If I qualify, will I have to use all of my current paid leaves before utilizing EPSL and/or EFMLEA benefits?

- No, you do not have to exhaust current paid leave balance before using EPSL or EFMLEA benefits.

11) When receiving EFMLEA benefits and supplementing with EPSL or accrued leaves, do I have to use all of my accruals down to zero?

- No, accrued leaves will be used in accordance with the applicable MOU/Salary Resolution, generally allowing an employee to retain 40 hours of sick and 40 hours of a combination of vacation/comp hours.

12) What if I am ill, but it is not COVID-19 related?

- Just as you normally would, you will be required to utilize your sick leave accruals for absences due to illness or injury unrelated to COVID-19. If you have a serious health condition, please contact your department payroll clerk 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 EFMLEA from the County during my current leave?

- No.

14) Do EPSL and EFMLEA run concurrently when used together?

- Yes. EFMLEA also applies to the total number of hours available under the Family and Medical Leave Act (FMLA). For all employees, EFMLEA will not exceed 12 weeks (480 hours).
15) How do I code my time based on the information above?
   - Please see the COVID-19 Public Health Emergency Employee Timecard Situation Coding Matrix for EPSL & EFMLEA for payroll coding of these new benefits. This document can be found on the Employee Resources page of the County’s website.

16) If I am utilizing EPSL and/or EFMLEA paid leaves, will I still have health benefits?
   - As long as a full time employee records hours worked or approved leaves for 50% or more of their regularly scheduled hours in a given pay period, the County continues to contribute its share of the medical/dental/vision plan premiums. Therefore, a full-time employee receiving 2/3 pay under EFMLEA, or who is using EPSL or other accrued leaves for 50% or more of their regularly scheduled hours in a given pay period, will not see a reduction in the County’s healthcare premium contribution. Employees working part-time, or as Extra-Help, have different requirements. If a part-time or extra-help employee is receiving fewer paid hours than usual, they should check with their payroll clerk regarding any impacts to their County benefit contributions.

17) If I have already used my 12 weeks of FMLA protected leave within the previous 12 months, am I eligible for additional EFMLEA under the new legislation?
   - Maybe. FMLA operates on a 12 month rolling calendar, therefore you may not have FMLA available now, but you may at a future date. Please contact your department payroll clerk for more information on your eligibility.

18) If I do not use all my paid hours that I am qualified for under EPSL or EFMLEA by 12/31/2020, can they be cashed out or rolled over to next year?
   - No. Benefits under these programs expire on after 12/31/2020, and EPSL has no cash value.

19) The FFCRA poster mentions caps or limits on the EPSL and/or EFMLEA benefits paid by the employer. Why aren’t these caps mentioned in any County document/instruction?
   - The FFCRA has provided for certain wage caps based on the type of benefit the employee may receive. The County has decided not to cap the daily dollar value of the FFCRA benefits as allowed under the law. The only dollar limit that applies is the 2/3’s of hours paid under EFMLEA.

20) Are healthcare providers and emergency responders eligible for EPSL and EFMLEA leave benefits under the FFCRA?
   - While the FFCRA provides that an employer of an employee who is a health care provider or an emergency responder may elect to exclude such employee from the application of the provisions of the FFCRA, the County does not intend at this time to exclude such employees from these leave benefits. However, the County reserves the right to exclude such employees in the event there is an operational need to.

21) Can I use my EFMLEA 2/3’s pay benefits on a partial day intermittent basis?
   - Yes. You will record hours actually worked as appropriate. Then you will breakdown the remaining hours into 2/3 and 1/3 increments. You will record the 2/3’s portion to EFMLEA No School/Daycare and the 1/3 portion to either accrued leaves/EPSL or LWOP depending on your election to/not to supplement EFMLEA.
22) I am using EFMLEA 2/3’s pay benefits on an intermittent basis and have been assigned an additional Disaster Service Worker (DSW) or other assignment. How do I record this?

- You have received a schedule change where one of your EFMLEA intermittent shifts was changed to another time where you are available to work as a DSW or other assignment. Record hours/telework hours worked on your schedule change day and do not record hours on your previously scheduled intermittent EFMLEA scheduled day.

Additional Questions

1) What’s happening with the hours that the County had ‘advanced’ me on 3/10/2020?

- The hours added to your regular “Sick Leave Accrual” for the pay period beginning 3/10/2020 will no longer be considered an advance to be repaid over 22 pay periods. As announced on 4/3/2020 by HR, these hours are now considered an addition to your accruals and you will continue to accrue sick leave hours as normal.

2) I am an Extra-Help employee. What happens when I am no longer eligible for Disaster Paid Not Worked (DPNW) leave?

- You may be eligible to receive Unemployment benefits. Information is available on the State of California Employment Development Department website: https://www.edd.ca.gov/about_edd/coronavirus-2019.htm