

UNIVERSITY OF CALIFORNIA LEAVE OBLIGATIONS UNDER FFCRA

Effective April 1, 2020, the University provides job-protected paid leave for specified COVID-19-related reasons in accordance with the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act, which were signed into law on March 18, 2020 as part of the Families First Coronavirus Response Act (FFCRA). **All entitlements must be used by December 31, 2020.**

This summary applies to all University locations other than Lawrence Berkeley National Laboratory.

Leave Entitlements

An employee's maximum potential entitlement under emergency paid sick leave is up to 80 hours of pay for a full-time employee (and the two-week equivalent for a part-time employee) when an employee takes emergency paid sick leave for any combination of the six qualifying reasons below. An employee's maximum potential paid entitlement under expanded family and medical leave is 10 workweeks and may only be used for Reason 5 below. Although the law allows employers to place caps on pay for both emergency paid sick leave and expanded family and medical leave, the University has decided not to apply these caps. University employees will therefore receive their regular rates of pay when taking these leaves.

Health care workers and emergency responders, as defined in Attachment A, are not eligible to use emergency paid sick leave to care for others (Reasons 4 and 5 below) and are not eligible to use expanded family and medical leave.

- Reason 1: The employee is unable to work or telework because the employee is subject to a federal, state, or local **quarantine or isolation order** (including a shelter-in-place order) related to COVID-19. An employee may not take emergency paid sick leave for this reason if the University does not have work for the employee because of the order or other circumstances.
- Reason 2: The employee is unable to work or telework because the employee has been advised by a health care provider to **self-quarantine** due to concerns related to COVID-19.
- Reason 3: The employee is unable to work or telework because the employee is **experiencing symptoms** of COVID-19 and is seeking a medical diagnosis from a health care provider.
- Reason 4: The employee is unable to work or telework because the employee is **caring for an individual** who is either subject to a federal, state, or local quarantine or isolation order related to COVID-19 or who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19. Health care workers and emergency responders are not eligible to take emergency paid sick leave for this reason.

Reason 5: The employee is unable to work or telework because the employee is **caring for their child whose school or place of care has closed** (or whose child care provider is unavailable) due to COVID-19 precautions. Health care workers and emergency responders are not eligible to take emergency paid sick leave for this reason.

An eligible employee may also take **expanded family and medical leave** for Reason 5 only. This leave could be for up to twelve workweeks. The first two workweeks of expanded family and medical leave are unpaid, but employees may elect to use emergency paid sick leave, their existing paid accruals, or UC's expanded paid administrative leave during this time. After the first two workweeks have elapsed, the employee will receive up to 10 workweeks of paid expanded family and medical leave for the hours they would have been scheduled to work. Health care workers and emergency responders are not eligible to take expanded family and medical leave.

Reason 6: The employee is unable to work or telework because the employee is experiencing any other **substantially-similar condition** specified by the U.S. Department of Health and Human Services (HHS). HHS has not yet specified any such conditions.

Employee Eligibility

- Emergency Paid Sick Leave: All employees are eligible regardless of length of University service except that health care workers and emergency responders, as defined in Attachment A, are not eligible to take emergency paid sick leave for Reasons 4 or 5 above.
- Expanded Family and Medical Leave:
 - Health care workers and emergency responders, as defined in Attachment A, are not eligible.
 - All other employees are eligible if they have been on the University's payroll for the 30 calendar days immediately prior to the day that their leave would begin.
 - If the University laid off an employee on or after March 1, 2020 and then rehires that employee (into a position other than a health care worker or emergency responder position), the employee will qualify for expanded family and medical leave so long as that employee worked for the University for at least 30 of the last 60 calendar days before the layoff.
 - The amount of expanded family and medical leave that an employee can take will depend on whether the employee has already used any of their leave in 2020 under the Family and Medical Leave Act (FMLA). If the employee has taken some but not all of their 12 workweeks of FMLA leave in 2020, the employee may take the remaining workweeks of leave as expanded family and medical leave. If the employee has already used 12 workweeks of FMLA leave during 2020, the employee will not be able to take expanded family and medical leave.

- Note: Although expanded family and medical leave counts against an employee's FMLA entitlement, it does not count against the employee's entitlement under the California Family Rights Act (CFRA). This means that an employee could have up to 12 workweeks of family and medical leave remaining under CFRA for CFRA-covered reasons in 2020.

Interaction with Existing Paid Leave Options

- The University cannot require that an employee use other University-provided paid leave (e.g., UC's expanded paid administrative leave provided in response to COVID-19 or the employee's paid leave accruals) before the employee uses emergency paid sick leave or expanded family and medical leave.
- These laws created new leave entitlements effective April 1, 2020. This means that an employee's use of UC's expanded paid administrative leave for COVID-19-related reasons before April 1 does not reduce their entitlement to leave under these laws.

How Leave May Be Taken

Employees may only take these new leave entitlements as block leaves.

Required Notice

The University must post a notice of the law's requirements in a conspicuous place on its premises. As many employees are teleworking, the University may satisfy this requirement by emailing or direct mailing this notice to employees or by posting this notice on an employee information internal or external website. The DOL's model notice is available here: https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Non-Federal.pdf.

Documentation

The University will require that employees provide appropriate information in support of their requests to use these leaves.

Tax Credits

While private employers are eligible for tax credits to cover the amounts they pay to employees under these laws, public agencies like the University are not eligible for those credits under the current legislation.

ATTACHMENT A

A “**health care worker**” is a “health care provider” as defined by the FCCRA implementing regulations:

For the purposes of this definition Employees who may be exempted from Paid Sick Leave or Expanded Family and Medical Leave by their Employer under the FFCRA, a health care provider is anyone employed at any doctor’s office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, Employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

An “**emergency responder**” is defined by the FCCRA implementing regulations as:

For the purposes of Employees who may be excluded from Paid Sick Leave or Expanded Family and Medical Leave by their Employer under the FFCRA, an emergency responder is anyone necessary for the provision of transport, care, healthcare, comfort, and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility.