

## **Student Employee FAQ: FFCRA- Emergency Paid Sick Leave**

### **1. Who is eligible for the leave?**

All employees are eligible for two weeks of emergency paid sick leave under the Families First Coronavirus Response Act. Student-employees are not exempted from the leave.

### **2. How much leave does an eligible employee receive?**

A student employee is entitled to two weeks of paid sick leave. The number of hours per week is based on the student's normal work schedule based on their work over the past 6 months, or over the duration of employment if employed less than 6 months. It is also acceptable to use the hours per week identified in the student's appointment letter, or the hours per week identified in the job posting, position description or job requisition. The goal of any method should be the good faith estimation of the hours a student would be expected to work if not for their qualifying reason for leave.

### **3. For what reasons can a student employee use the leave?**

A student-employee for whom work is available, and who is unable to perform assigned duties or work remotely, may use COVID-19 Leave for the following reasons:

- Diagnoses of COVID-19 or experiencing symptoms of COVID-19 and seeking a diagnosis
- Care of an individual who has a diagnosis of COVID-19 or is experiencing symptoms of COVID-19 and is seeking a diagnosis.
- Subject to a quarantine or isolation order, or advised to self-quarantine.
- The student is unable to work an existing scheduled shift due to a decision by the employer to close the student's workplace
- Care of an individual subject to a quarantine or isolation order or who has been advised to self-quarantine.
- Child/elder care due to school/day care closures, or;
- Any employee experiencing any other substantially similar condition specified by the US Secretary of Health and Human Services in consultation with the US Secretary of the Treasury and the US Secretary of Labor

### **4. Is a student employee eligible to use the leave if a campus closes?**

The Dept. of Labor's administrative guidance states that if there is no work for an employee to perform, they are not entitled to the paid sick leave under FFCRA. The Dept. uses a "but for" test to answer such questions. "But for the employee suffering from one of the qualifying conditions for the leave, would the employee be working for the employer?" If the campus is closed, then the student wouldn't be working, regardless of whether they were suffering from one of the qualifying conditions.

**5. Is a student eligible to use the leave if they haven't been assigned any hours?**

The emergency sick leave is a personal entitlement which the employee can use to be paid when unable to work during assigned hours because of one of the qualifying conditions. If the employee is not assigned any hours, then there are no hours against which the leave could be applied. An employee's schedule must not be changed because they are suffering from one of the qualifying conditions, but may vary based on other external factors. The decision about how many hours an employee should be scheduled should be made independently of their eligibility for the COVID-19 leave.

**6. How can a student apply for the leave?**

A student who wishes to claim COVID-19 Leave should fill out the form provided by their institution.

**7. Are student-employees eligible for eFMLA Leave?**

If a student has been employed for 30 days and otherwise meets the eligibility criteria for eFMLA leave, then yes, they are entitled to eFMLA leave under the same conditions as any other employee.

**8. How do institutions notify Shared Services about the amount of leave available for their student employees and how is the use of that leave communicated to Shared Services?**

Templates have been provided to campuses to complete for both the initial load of eligible student COVID leave hours and the amount of hours to be paid in any given pay period.

**9. How will the student and the institution know what the remaining available balance for the student is?**

A query has been created for campuses to run which will give them this data.

**10. Will students enter their leave time on a timesheet?**

No, the student leave entry functions are only available to administrator.

**11. If an employee has a child enrolled at a school which has given parents a choice about whether to have their child attend in person or remotely, and the employee chooses to have their child attend remotely, is the employee eligible for eFMLA leave?**

The DOL has determined that parents in this situation would not be eligible for eFMLA leave. HR Directors can consult your assigned legal counsel in the Office of General Counsel for further advice on this topic. <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions#99>

**Where can I find additional information?**

<https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave>

<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

<https://www.federalregister.gov/documents/2020/04/06/2020-07237/paid-leave-under-the-families-first-coronavirus-response-act>

<https://www.federalregister.gov/documents/2020/09/16/2020-20351/paid-leave-under-the-families-first-coronavirus-response-act>

[https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA\\_Poster\\_WH1422\\_Federal.pdf](https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Federal.pdf)