

Families First Coronavirus Response Act (FFCRA) FAQ's

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

The FFCRA was passed into law as a result of the COVID-19 Crisis. It goes into effect April 1, 2020 and remains in effect through December 31, 2020. Two important items it contains pertaining to employees is:

- a) Federal Emergency Paid Sick Time; and,**
- b) Emergency Family and Medical Leave Expansion.**

2. What is Federal Emergency Paid Time?

The Federal Emergency Paid Sick Time (FEPST) provides for up to 80 hours of paid sick time for one of the following reasons:

- a) FEPST for Self (FEPST-Self); and,**
- b) FEPST for Caregiving (FEPST-Caregiving).**

3. What is FEPST-Self?

FEPST-Self provides for up to 80 hours (prorated for part-time) of paid sick time at the employee's regular rate of pay when the employee is unable to work or telecommute for the following reasons:

- a) Government quarantine/isolation order;**
- b) Health Care Provider quarantine/isolation order; or,**
- c) Employee is experiencing COVID-19 symptoms and seeking diagnosis.**

4. What is FEPST-Caregiving?

FEPST-Caregiving provides for up to 80 hours (prorated for part-time) of paid sick leave at 2/3's of the employee's regular rate of pay, capped at \$200 per day and \$2,000 total, when the employee is unable to work or telecommute for the following reasons:

- a) Caring for an individual under Government quarantine/isolation order;**
- b) Caring for an individual under a health care provider quarantine/isolation;**
- c) Employee is experiencing any other substantially similar condition specified by the Department of Human and Health Services Secretary; or,**
- d) Employee is caring for a school-aged child (under 18) who is affected by a school closing.**

5. Who qualifies as “an individual” provided in question 4(a) and 4(b) for the FEPST-Caregiving?

The Department of Labor defines “an individual” as an immediate family member or someone who regularly resides in your home. Additional guidance provides that it is someone where your relationship creates an expectation that you care for the person in a quarantine or self-quarantine situation and that the individual depends on you for care during such time. Therefore, you cannot receive FEPST-Caregiving if you have no relationship with the individual or the individual does not expect or depend on you during their quarantine or self-quarantine due to COVID-19.

6. What is a substantially similar condition specified by Department of Human and Health Services Secretary:

Currently, there is no guidance as to what type of condition this would include. As soon as information is received, this item will be updated.

7. Can FEPST-Self or FEPST-Caregiving be used intermittently?

Yes. Both FESPT-Self and FEPST-Caregiving can be used intermittently with Department approval. However Federal guidance provides that FESPT-Self and FEPST-Caregiving must be taken in full-day increments.

8. Can I receive pay for both FEPST-Self and FEPST-Caregiving?

Yes. You can receive pay for both FEPST-Self and FEPST-Caregiving. However, whether using the paid sick time individually (FEPST-Self or FEPST-Caregiving) or in combination, the total amount of Federal Emergency Paid Sick Time cannot exceed 80 hours total. For example, I can receive pay for 40 hours of FEPST-Self and 40 FEPST-Caregiving. I cannot receive pay for 80 hours of FEPST-Self and 80 hours of FEPST-Caregiving. The combined total amount received cannot exceed 80 hours total.

9. Can I use FEPST-Self or FEPST-Caregiving if I am on probation?

Yes. You are permitted to use either FEPST-Self or FEPST-Caregiving while on probation; however, the employee’s probation will be extended by the amount

of time the employee is on FEPST-Self or FEPST-Caregiving.

10. How long must I be employed prior to receiving FEPST-Self or FEPST-Caregiving?

Employees are immediately eligible to use either type of Federal Emergency Paid Sick Time.

11. Am I required to submit medical documentation to qualify for FEPST- Self or FEPST-Caregiving? **(UPDATED 6/8/20)**

In some circumstances, yes. For FEPST-Self, Employees are required to submit medical documentation if their health care provider places them under a quarantine or isolation order or if they are experiencing COVID-19 symptoms and seeking a medical diagnosis. For FEPST-Caregiving, Employees are required to submit medical documentation if they caring for an individual under a health care provider quarantine/isolation or they are experiencing any other substantially similar condition specified by the Department of Human and Health Services Secretary. Documentation can be provided from a health clinic, urgent care, Teladoc, or other healthcare provider; however, every effort should be made to not burden the health care system. For the other two remaining categories under 3(a), 4(a) and 4(d), medical documentation is not warranted.

12. What is the Emergency Family and Medical Act Expansion Leave?

Emergency Family and Medical Act Expansion Leave (E-FMLA) adds a new qualifying absence to the FMLA for “public health emergency leave” that is paid. It provides for up to 12 weeks of job-protected leave to employees with school age children (under age 18) who are affected by a school closure.

13. Does this mean I receive additional FMLA Hours?

No. The FMLA hours remain at 480 hours (12 weeks) annually. The expansion provides for an additional reason the FMLA may be used; it does not increase the amount of hours that it can be used.

14. What if I am already on FMLA?

You should remain on the current FMLA leave. When your FMLA is set to expire, you should submit E-FMLA to determine whether there are any remaining unused FMLA hours that can be used.

15. What if I previously used FMLA hours in the past year, will I qualify?

You will qualify for E-FMLA if you have remaining unused FMLA hours.

16. How much do I get paid if I qualify for E-FMLA?

The first 10 days of E-FMLA are unpaid; however, employees are permitted to use available FEPST-Caregiving, pandemic outbreak leave, sick leave, compensatory time, or vacation leave during the unpaid 10 day period. After the unpaid 10 days, the employee is paid 2/3's of their regular rate of pay capped at \$200 per day or \$10,000 total, for a period not to exceed 10 weeks.

17. Can I receive pay for both FEPST and E-FMLA?

Yes. You can receive pay for both FEPST and E-FMLA; however the total combined amount of these paid leaves cannot exceed 12 weeks. For example, I can receive pay for 80 hours of FEPST (two weeks) and 12 weeks of E-FMLA (2 weeks unpaid and 10 weeks at 2/3's of my rate of pay). I cannot receive pay for 80 hours of FEPST (two weeks) and pay for 12 weeks of E-FMLA. These leaves cannot be "stacked," and the combined total amount received cannot exceed 12 weeks total.

18. In order to use E-FMLA, am I required to complete FMLA paperwork?

Yes. All documentation must be submitted to County Human Resources – Leave Administration, who will approve or deny the request. FMLA paperwork can be submitted at fmlacoordinator@pima.gov or fax at 520-791-6514.

19. Am I required to provide documentation in order to qualify for E-FMLA? **(updated 9/22/2020)**

Yes. If you are providing caregiving due to a school closure, you must provide:

- Name of the Child/Children;
- Name of Schools, place of care, or care provider;
- Attest that no other suitable person is available to care for child; and,
- Any documentation showing that the child is school age and currently attending school. Examples may include, but are not limited to, a recent report card, a current student identification badge, notices of school closure sent to the employee/parent, or any other relevant documentation.

(added 9/22/2020)

If you have qualified for E-FMLA, it is your responsibility to keep Leave Administration updated on your qualifying circumstances when they change. For example, if your child's school has gone from "completely closed" to "open for hybrid learning," (both in-person and on-line instruction) you are required to provide the updated information to Leave Administration (HR.LeaveAdmin@pima.gov) so it can be applied to your leave case. Unjustified utilization of E-FMLA time may jeopardize the County's ability to be reimbursed for this expense, which will negatively impact the County budget.

You must also notify Leave Administration if your child will be turning 18 during your E-FMLA eligibility.

20. How long must I be employed prior to requesting E-FMLA?

Employees who have been employed for at least 30 calendar days are eligible for E-FMLA.

21. Can I supplement the 2/3's pay I receive? **(UPDATED 4/24/20)**

Employees on E-FMLA may use compensatory time, vacation leave, sick leave, or pandemic outbreak leave for the remaining 1/3 pay. While employees may be eligible for both the Federal Emergency Paid Sick Time and E-FMLA, they may only take them for a total of twelve weeks of paid leave.

22. May I apply for E-FMLA if I am on probation?

Yes. Employees are required to be employed for at least 30 calendar days. However, the employee's probationary period can be extended by the amount

of time the employee is on approved E-FMLA.

23. Can I take E-FMLA intermittently?

Yes. Employees are permitted to take E-FMLA intermittently. However, every effort should be made to provide advanced notice of foreseeable leave as soon as practicable.

24. What if I was absent from work prior to April 1, 2020, in order to care for my school aged child, am I permitted to use E-FMLA for that period of time?

No. E-FMLA is not retroactive.

25. How do I know if I am essential or nonessential?

Your supervisor or manager will tell you.

26. I was designated nonessential and placed on Pandemic leave, but my Appointing Authority has notified me that I may need to occasionally come into work to perform essential work. When I come into work to perform essential work, will I forfeit my remaining Pandemic Outbreak Leave?

No, you will not forfeit your unused Pandemic Outbreak Leave. You will only be permitted to return to work as long you have not experienced COVID-19 symptoms. Pandemic Outbreak Leave-Sick is required to be used continuously for 14 consecutive, calendar days if you are experiencing COVID symptoms. Otherwise, with the approval of your Appointing Authority, you may be permitted to use the Pandemic Outbreak Leave on an intermittent basis.

27. I have a compromising medical condition that makes me high-risk for complications from COVID-19. I am a regular, full-time/40-hour-a-week employee. Telecommuting is not an approved option for my job. Since March 23, 2020, I have been out of work on County-provided Pandemic Outbreak Leave-Sick. On March 31, 2020, I was notified by my supervisor that I am an “essential” employee. Do I have to come to work?

It depends. If there is no one else who can perform your essential job, you may be directed to come to work. If per your Appointing Authority your essential job

tasks are able to be handled by someone else, you should remain out of work for the remainder of your available Pandemic Outbreak Leave-Sick. Once your County-provided Pandemic Outbreak Leave-Sick has exhausted, you may qualify for FEPST-Self; however, you would need to contact Human Resources to make that determination. Otherwise, you are permitted to use sick leave, comp, or vacation accruals.

28. Can essential employees whose job functions can't be completely conducted remotely but who have children out of school refuse to come to the work site?

Employees who have school aged children affected by a school closure may choose to take Emergency Family and Medical Leave (E-FMLA) for up to 12 weeks. E-FMLA is a protected leave and you are not required to attend work while on approved E-FMLA.

29. I used all of my County-provided Pandemic Outbreak Leave-Sick during March because I had a flulike illness. On March 31, 2020, I was notified that my position was nonessential. On April 1, 2020, I was placed on Federal Emergency Paid Sick Time. I need to stay out of work at least until April 30, 2020, based on the Governor's Executive Order. My Federal Emergency Paid Sick Time will exhaust ("run out") at close-of-business on April 14, 2020. What happens then?

Per Board of Supervisor policy 2.9, *Temporary Novel Coronavirus COVID-19 Policy*, you are required to use available compensatory time, vacation leave, and sick leave, in that order. Once you exhaust those leaves, you will be placed on furlough. (See COVID-19 Furlough FAQs)

30. Can I use leaves intermittently?

If you are not exhibiting symptoms of COVID-19, you are permitted to use leaves intermittently, with the exception of Pandemic Outbreak Leave, which requires an Appointing Authorities approval for use by essential employees. Pandemic Outbreak Leave must be taken in increments of half or whole days. Both FESPT-Self and FEPST-Caregiving can be used intermittently with Department approval; however, Federal guidance provides that FESPT-Self and FEPST-Caregiving must be taken in full-day increments.

31. I am an intermittent employee. How many hours of County-provided Pandemic Outbreak Leave and/or FFCRA/Federal Emergency Paid Sick Time am I eligible for?

If you would otherwise be on the schedule if there was no pandemic, the number of hours of each type of leave available to you can be calculated as follows:

If you have been employed by the County for at least six months: If you have a work schedule that varies to such an extent that your Appointing Authority or designee is unable to determine the number of hours you would have worked on the day for which leave is taken, your allotment would be the average number of hours you were scheduled to work each workday, over the six-month period ending on the date on which you first take E-FMLA Leave, including hours for which you took leave of any type.

If you have been employed by the County for less than six months: If you have a work schedule that varies to such an extent that your supervisor is unable to determine the number of hours you would have worked on the day for which leave is taken, your allotment would be the average number of hours that you and your Appointing Authority (or designee) agreed upon at the time of hiring that you would work each workday. If there was no such agreement, your scheduled number of hours would be equal to the average number of hours per workday that you were scheduled to work over your entire period of employment, including hours for which you took leave of any type.

32. I am an intermittent employee who worked in early March. I expect to work again in July. Am I currently able to use County-provided Pandemic Outbreak Leave and FFCRA/Federal Emergency Paid Sick Time?

If you are not expected to be on the schedule during this pay period, you are likely not *currently* able to take either County-provided Pandemic Outbreak Leave or FFCRA/Federal Emergency Paid Sick time. However, upon your return to the schedule, you will be eligible for a prorated amount these leaves (as described in Question 31).

Keep in mind, however, that County-provided Pandemic Outbreak Leave is only available as per BOS D 23.20, so when the County declares the pandemic to be over, Pandemic Outbreak Leave would no longer be available to you. FFCRA/Federal Emergency Paid Sick Time and E-FMLA, at the time of this writing, are expected to “sunset” and no longer be available after December 31, 2020.

33. I am an intermittent employee. How many Emergency FMLA (E-FMLA) hours for childcare do I get?

To be eligible for E-FMLA, you must be on the County payroll for 30 days. Once you have 30 days with the County, the amount of leave you may be eligible for can be calculated in the manner described in Question 31. You would be able to take E-FMLA hours for those that you would normally expect to be on the schedule.

34. I am an intermittent employee. My supervisor sent me home from work in mid-March and said I was being sent home for my own health and wellness. Am I entitled to County-provided Pandemic Outbreak Leave, FFCRA/Federal Emergency Paid Sick Time, and/or E-FMLA, if otherwise qualified?

If you would otherwise have been on the schedule if there was no pandemic, you would likely be entitled to a prorated amount of hours (calculated as per Question 31). A reasonable person would conclude that you were sent home due to the pandemic, given (1) the timing of your being sent home and (2) the fact that your supervisor mentioned your health and wellness when sending you home.

35. I am a full-time employee who still has the full allotment of Federal FFCRA/FEPST leave available. As of June 8, 2020, I need to use FFCRA/FEPST Caregiving, since I have a household family member who is ill with COVID-19 and I need to provide care for them.

Do I just put it on my timecard? **(NEW 6/8/20)**

You must complete the [Employee Request for Federal Emergency Paid Sick Time](#) and submit it directly to Human Resources as indicated on the form. Human Resources will evaluate your request. Your reason for requesting leave, and documentation supporting such, must be compliant with [Federal guidance](#) and County policy. Human Resources will notify you and your Department of your request's outcome.

Supervisors and managers should not approve timecards with FFCRA/FEPST leave on them if there has not been prior approval from Human Resources.

Questions 36 - 39 removed and updated on School Leave FAQs – (Updated 8/21/2020)