



**NSHE**

# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

At this time, NSHE has implemented the provisions of this act in the manner detailed below.

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to telework) due to a need for leave because the employee:

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| <ol style="list-style-type: none"> <li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li> <li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li> <li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li> <li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li> </ol> | <ol style="list-style-type: none"> <li>5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or</li> <li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li> </ol> <p><i>(U.S. Department of Labor, Wage and Hour Division (WHD))</i></p> |
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### ▶ PAID LEAVE ENTITLEMENTS FOR ACADEMIC FACULTY, ADMINISTRATIVE FACULTY, CLASSIFIED STAFF, TECHNOLOGISTS, MEDICAL RESIDENTS AND POSTDOCTORAL FELLOWS

In the memo dated March 20, 2020, to all Department Directors from the Office of the Governor, Subject: COVID-19 Risk Mitigation Guidance, it was stated that no employee should be required to use sick, annual or unpaid leave for COVID-19-related absences. Rather, authorized paid administrative leave pursuant to NAC 284.589 or the Department of Administration's March 15, 2020, emergency regulation should be used instead for COVID-19-related absences. Therefore, the following information relating to the FFCRA is being provided only for informational purposes at this time.

### ▶ PAID LEAVE ENTITLEMENTS FOR STUDENT EMPLOYEES, LETTERS OF APPOINTMENT, GRADUATE ASSISTANTS AND TEMPORARY HOURLY EMPLOYEES

If an employee meets one of the six conditions listed above, they should contact their supervisor. Salaried employees (salaried letter of appointment and graduate assistant) will be kept in paid status for the duration of the events listed above if they received communication that they were expected to work for the academic semester when the conditions arise.

Student employees, hourly letter of appointment and temporary hourly employees should have time entered by the employee, manager or Timekeeper for: Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid time (sick leave) based upon the average work performed for that semester. AND Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of paid expanded family and medical leave for reason #5 above. A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

Please note that leave event number 4 (see above) provides paid leave when an employee is caring for an individual, not just a family member, subject to a quarantine or isolation order or self-quarantine. The WHD has defined an individual as an immediate family member, roommate, or a similar person with whom the employee has a relationship that creates an expectation that the employee would care for the person.

### ▶ FAMILY MEDICAL LEAVE ACT (FMLA)

The WHD also states that where an employee has already taken some FMLA leave in the current twelvemonth leave year as defined by 29 C.F.R. § 825.200(b), the maximum twelve weeks of EFMLEA (FFCRA's Emergency Family and Medical Leave Expansion Act) leave is reduced by the amount of the FMLA leave entitlement taken in that year.

Additionally, during the COVID-19 pandemic, NSHE may request documentation for expanded FMLA medical certifications. The FFCRA regulations do not require employers to respond to employees who request or use EFMLEA leave with notices of eligibility, rights and responsibilities, or written designations that leave use counts against employees' FMLA leave allowances. (i.e. NPD-62, NPD-63)

### ▶ EXCLUSIONS

FFCRA excludes employees who are health care providers and emergency responders. The WHD provides clarification on what groups of employees fall within these exceptions. NSHE may exclude these employees.

### ▶ ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



**WAGE AND HOUR DIVISION**  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://dol.gov/agencies/whd)

