

# SA 20-10 – New “Public Health Emergency” Sick Leave and FMLA Leave (4/2/20, rev 5/4/20)

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On March 18, 2020 the Families First Coronavirus Response Act (FFCRA) (Public Law 116-127), was enacted into law. This new law grants employees paid sick leave or expanded family and medical leave for specific reasons related to the COVID-19 pandemic. For Library employees, the law supplements the sick leave and other regular types of leave they have already accrued and the administrative leave already granted by the Library.

This special announcement highlights provisions of the new leave entitlements that apply to Library employees. Frequently Asked Questions regarding the new entitlements will be issued in the next two weeks.

## 1. New Paid Sick Leave Related to COVID-19 (rev 5/4/20)

To address the COVID-19 public health emergency, FFCRA authorized two new categories of paid sick leave. These new types of leave are available to Library employees in addition to their regular accrued sick leave, annual leave, compensatory time, and credit hours. All employees are eligible for the new paid sick leave regardless of number of days they have worked at the Library. While the new categories of leave are subject to pay caps, they may nevertheless be especially helpful to employees who do not have a balance of accrued leave.

The first category provides up to 80 hours for employees who are unable to work or telework because they are:

- Quarantined or isolated pursuant to a federal, state, or local government order;
- Self-quarantined based on advice of a health care provider; or,
- Experiencing COVID-19 symptoms and seeking a medical diagnosis.

Leave under this authority is paid at the employee’s regular rate of pay. However, the rate is capped at \$511 per day or \$5,110 for 80 hours. Employees above the GS-13 step 9 level should consult with HCD to determine how the cap would affect them.

**Update (5/4/20):** See [section 5](#) re application of caps.

The second category provides up to 80 hours for employees who are unable to work or telework because they are:

- Caring for someone who is subject to quarantine/isolation pursuant to federal, state, or local government order, or who has been advised by a health care provider to self-quarantine;

- Caring for a child under age 18 whose school or child care provider is closed or unavailable for reasons related to COVID-19; or,
- Experiencing a substantially similar condition as specified by the Secretary of Health and Human Services.

Leave for these reasons is paid at two-thirds of the employee’s regular rate of pay and is capped at \$200 per day or \$2,000 for 80 hours. Employees at GS-10 and above or WS-8 and above should consult with HCD to determine how the cap would affect them.

Part time employees’ hours and pay are prorated for these new categories of paid sick leave.

**Update (5/4/20):** See [section 5](#) re application of caps.

## **2. New Public Health Emergency FMLA Leave**

Generally, the Family and Medical Leave Act (FMLA) entitles employees to use up to 12 weeks of unpaid leave to care for their own serious health condition, the serious health condition of a family member, the birth or adoption of a child, or another qualifying medical situations. Under Library regulations, employees may substitute their accrued leave for their FMLA leave, so that their FMLA time is paid. See LCR 9-1020.

FFCRA creates a new “public health emergency leave” type of FMLA leave. An employee may invoke this new type of FMLA to care for a son or daughter under age 18 whose school or child care provider is closed or unavailable for reasons related to COVID-19. (Unlike regular FMLA, with public health emergency FMLA, neither the employee nor the child needs to have a serious health condition.) This leave is available to individuals who have been employed by the Library for at least 30 calendar days.

Importantly, when invoking public health emergency FMLA, leave for the first two weeks is unpaid unless the employee chooses to use accrued annual leave, sick leave, compensatory time, or the paid sick leave discussed above. (This is like regular FMLA.) Leave during the remaining 10 weeks, however, is paid at two-thirds of the employee’s rate of pay and is capped at \$200 per day or \$10,000 for the duration. Substituting accrued leave (at the full hourly rate) for this portion of the new category of FMLA is not allowed.

Note that this new public health emergency category within FMLA does not give an employee an additional 12 weeks of FMLA. The cumulative annual amount of all FMLA leave remains 12 weeks.

## **3. Effect on Existing Administrative Leave Authorization (rev 5/4/20)**

Teleworking employees will no longer receive administrative leave for caregiving purposes under SA 20-09. (That leave is authorized only through pay period 9.) Instead, they may use the paid sick leave or public health emergency FMLA for caregiving purposes as described in this announcement. Administrative leave described in SA 20-04 and 20-07 for individuals who cannot telework is unaffected.

#### **4. Effective Date and Authority (rev 5/4/20)**

These new leave types are effective April 1, 2020, and remain in effect until December 31, 2020.

See, Families First Coronavirus Response Act (FFCRA), [Public Law 116-127](#), Division C, Emergency Family and Medical Leave Expansion Act, and Division E, Emergency Paid Sick Leave Act, March 18, 2020.

See, Coronavirus Aid, Relief, and Economic Security Act (CARES Act), [Public Law 116-136](#), sections 3601 and 3602, March 27, 2020.

#### **5. Update – Full Pay for New COVID-19 Paid Sick Leave (5/4/20)**

The CARES Act allows employers to lift the pay caps FFCRA established for the new public health emergency sick leave and FMLA. FFCRA required employers to cap the 80 hours of paid sick leave for employees affected by COVID-19 at \$511 per day/\$5,110 total and to cap the 80 hours for employees with caregiving responsibilities at \$200 per day/\$2,000 total. FFCRA applied similar caps to the new FMLA authorized for caregiving related to COVID-19.

As authorized by the CARES Act, Library will pay an employee's full rate for the new categories of sick leave related to COVID-19 (80 hours for oneself and 80 hours for caregiving). The daily and cumulative FFCRA limits will not apply to these new sick leave entitlements. There are no grade level restrictions on eligibility for full payment for this leave. [Section 1](#) of this announcement is amended accordingly (as announced in Coronavirus Update #32 for Library Staff on April 21, 2020.)

For the new public health emergency FMLA for caregiving responsibilities, however, the FFCRA limits described in [section 2](#) of this announcement will still apply. Employees may substitute accrued leave at the full rate for the first two weeks of FMLA, but are capped at two-thirds pay, \$200 per day, and \$10,000 total for the remaining 10 weeks.