



JUNE 2020 | LEGAL NETWORK FOR GENDER EQUITY

# New Leave Provisions for Workers Affected by COVID-19

The Families First Coronavirus Recovery Act (FFCRA) gives certain workers up to **10 paid sick days** to care for themselves or a family member and up to **12 weeks of paid leave** to care for a child if the child's school or childcare provider is closed because of COVID-19. This leave is available until December 31, 2020.

**Unfortunately, the law has A LOT of exceptions. This document can help you figure out if you may be covered and able to get leave. It answers questions such as:**

- 1. What reasons can the leave be used for?**
- 2. How much leave is provided?**
- 3. Which employers must give this leave?**
- 4. Which employees can get this leave?**
- 5. How much pay will the employee get?**
- 6. Can employees lose their job for taking leave?**
- 7. Can an employer retaliate against the employee for asking for or using paid sick days or paid leave?**

This is not legal advice. It gives you general information only. Individuals considering legal action should speak with an attorney.

# 1. What reasons can the leave be used for?

## **Paid sick days:**

You can use this leave if you cannot work or telework because:

- A health care provider has told you to self-quarantine.
- You have symptoms of COVID-19 and you need to be tested or seen by a doctor.
- You need to comply with a government quarantine or isolation order.
- You are caring for an individual who is under a government-mandated quarantine or self-isolating because of a COVID-19 diagnosis or symptoms.
- You are caring for your child if your child's school or childcare provider is closed or unavailable, due to the COVID-19 pandemic.

## **Paid Leave:**

You can use this leave if you need to care for your child if your child's school or childcare provider is closed or unavailable because of the COVID-19 pandemic.

## **Important definitions:**

- **“Individual”** is a family member, someone who regularly resides in your home, or someone you have a relationship with who you would be expected to care for if they were sick.
- **“Child”** is your child who is under the age of 18. It includes foster children and children where you are in loco parentis or the guardian of the child. It also includes children over the age of 18 if the child is “incapable of self-care because of a mental or physical disability.”

## 2. How much leave is provided?

### **Paid Sick Days:**

Up to 10 days (80 hours) for full-time workers. Part-time workers get the number of hours they would typically work in two weeks.

### **Paid Leave:**

Up to 12 weeks. The first two weeks are unpaid, but you can use paid sick days for those two weeks (or any other paid leave you have available). The next 10 weeks are paid.

- A government or public employer of any size, including the federal government.
- A private employer with fewer than 500 employees.
- If you work for a business with 50 or fewer employees, your employer may not have to provide paid sick days to care for a child when school or childcare is closed. Check with your employer to find out if the employer is providing the leave.

## 3. Which employers must give this leave?

### **Paid Sick Days:**

- A government or public employer of any size. A government or public employer of any size. Most federal workers are covered, but some may not be. Federal workers should check with their agencies.
- A private employer with fewer than 500 employees.
- If you work for a business with 50 or fewer employees, your employer may not have to provide paid leave to care for a child when school or childcare is closed. Check with your employer.

### **Paid Leave:**

- A government or public employer of any size. Most federal workers are not covered. (Federal workers are covered if they are covered by Title I of the Family Medical Leave Act. Ask your agency Human Resources office about coverage.)
- A private employer with fewer than 500 employees.
- If you work for a business with 50 or fewer employees, your employer may not have to provide paid leave to care for a child when school or childcare is closed. Check with your employer.

## 4. Which employees can get this leave?

### **Paid Sick Days:**

Most employees who work for a covered employer are eligible for paid sick days.

- Workers are covered even if they are not authorized to work in the U.S.
- Health care workers and first responders may not be eligible for these paid sick days. Check with your employer.

### **Paid Leave:**

- Most employees who have worked for a covered employer for at least 30 days are eligible for paid leave.
- Workers are covered even if they are not authorized to work in the U.S.
- An employee cannot use this leave if they have already used all their Family and Medical Leave Act leave for the year.
- Health care workers and first responders may not be eligible for this leave. Check with your employer.

## 5. How much pay will the employee get?

### **Paid Sick Days:**

- If the leave is to care for yourself, your employer should pay you your full pay, up to \$511 per day or \$5,110 total.
- If the leave to care for a child or loved one, your employer should pay you 2/3 of your normal pay, up to \$200 per day or \$2,000 total.
- If you work part-time, your employer should calculate your pay based on how many hours you work in an average two-week period. If you are a tipped worker, you should get your regular rate of pay as determined under the Fair Labor Standards Act. This usually works out to be minimum wage.

### **Paid Leave:**

After the first 10 days, your employer should pay you 2/3 of your normal pay, up to \$200 per day or \$10,000 total. Your employer should calculate your pay the same way they would for paid sick days.

## 6. Can employees lose their job for taking leave?

### **Paid Sick Days:**

Your employer cannot fire you for taking paid sick days.

### **Paid Leave:**

Your employer cannot fire you for taking paid leave.

If you work for an employer with 25 or more employees, your employer must give you the same job back, or an equivalent job, when you go back to work. Your employer does not have to give you your job back if the employer lays people off or makes a similar decision that would have ended your job even if you hadn't taken leave.

If you work for an employer with fewer than 25 employees, your employer must also give you your job back, unless your job no longer exists and if your employer cannot find you a similar one. In that situation, the employer must let you know about similar jobs that become available within the year. (But note that your employer is not permitted to eliminate your job because you have taken paid leave.)

## 7. Can an employer retaliate against the employee for asking for or using paid sick days or paid leave?

**Paid Sick Days:** No.

**Paid Leave:** No.

## Want to learn more or report a violation?

You can contact the Department of Labor, Wage & Hour, Division:

 <https://www.dol.gov/agencies/whd/contact/complaints>  
 1-866-487-9243

## Want to be connected to an attorney?

If you want to be connected to an attorney for a free consultation about your right to leave under the FFCRA, you can contact **The Legal Network for Gender Equity** at: [legalnetwork@nwlc.org](mailto:legalnetwork@nwlc.org)  
or

fill in our request for assistance here:

<https://nwlc.org/legal-assistance/>.