



DEPARTMENT OF DEFENSE
DEFENSE CIVILIAN PERSONNEL ADVISORY SERVICE
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FOR: CIVILIAN PERSONNEL POLICY COUNCIL MEMBERS

FROM: Defense Civilian Personnel Advisory Service Director, Ms. Michelle LoweSolis

SUBJECT: Interim Guidance on the Emergency Paid Sick Leave and Emergency Family and Medical Leave Expansion under the Families First Coronavirus Response Act

ACTION: Disseminate to Appropriated and Nonappropriated Fund Department of Defense (DoD) Human Resources Practitioners

REFERENCE(S):

- a. Families First Coronavirus Response Act (FFCRA), dated March 18, 2020, <https://www.congress.gov/116/bills/hr6201/BILLS-116hr6201enr.pdf>
- b. Department of Labor (DoL), Temporary Rule Paid Leave under the FFCRA, published April 6, 2020, <https://www.federalregister.gov/documents/2020/04/06/2020-07237/paid-leave-under-the-families-first-coronavirus-response-act>
- c. DoL, COVID-19 and the American Workplace, Factsheets and Questions and Answers, published April 6, 2020, <https://www.dol.gov/agencies/whd/pandemic>
- d. FFCRA Interim Guidance

BACKGROUND/INTENT: President Trump signed into law the FFCRA (reference a), providing employees with paid sick leave and expanded family and medical leave for reasons related to the coronavirus disease 2019 (COVID-19). The FFCRA leave provisions are effective from April 1, 2020, through December 31, 2020.

The Department of Labor (DOL) published regulations, (reference b), implementing the FFCRA. DOL also published fact sheets and questions and answers (reference c). DOL, not the Office of Personnel Management, is responsible for administering the FFCRA, including portions applying to Federal employees.

While the Defense Civilian Personnel Advisory Service intends on providing comprehensive guidance on the FFCRA, the attached interim guidance (reference d) provides information on eligibility rules and time and attendance procedures DoD Components should use until additional information becomes available.

POINT(S) OF CONTACT: DCPAS Emergency Preparedness email: dodhra.mc-alex.dcpas.list.emergency-preparedness@mail.mil.

Attachment(s):

As stated

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Families First Coronavirus Response Act Interim Guidance

Leave Entitlements

Emergency Family and Medical Leave. Division C of the Families First Coronavirus Response Act (FFCRA) provides for expanded family and medical leave to covered employees up to 10 weeks of paid leave at the two-thirds rate of pay. A covered employee may invoke leave under title I of the Family and Medical Leave Act of 1993 (FMLA) because the employee is unable to work (or telework) due to a need for leave to care for the employee's child (under 18 years of age) as a result of the child's school or place of care has been closed, or the child care provider of the child is unavailable, when related to a public health emergency connected to coronavirus disease 2019 (COVID-19).

Emergency Paid Sick Leave. Division E of the FFCRA provides up to 80 hours of emergency paid sick leave to all Federal civilian employees in specified circumstances related to COVID-19. This new temporary leave category is in addition to any other paid leave entitlements.

An employee qualifies for emergency paid sick leave if the employee is unable to work (or unable to telework) because the employee:

- is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
- has been advised by a health care provider to self-quarantine related to COVID-19;
- is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
- is caring for an individual subject to a quarantine or isolation order or self-quarantine; or
- is caring for a child under (18 years of age) whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19.

Eligibility

For an employee to be eligible for coverage under the **Emergency Family and Medical Leave Act**, the employee must be employed for at least 30 calendar days prior to the leave request and covered under title I of the FMLA (chapter 28 of title 29, United States Code). Coverage under title I of FMLA applies to DoD employees:

- with an intermittent work schedule (i.e., non-appropriated fund flexible employees on an intermittent work schedule);
- under a temporary appointment (i.e., an appointment with a time limitation of 1 year or less); or,
- covered under unique statutory authorities that apply provisions of title I (e.g. certain employees of the Department of Defense Education Activity).

As mentioned above, all DoD civilian employees are eligible for leave under the **Emergency Paid Sick Leave Act**.

Interim Time and Attendance Procedures

The Defense Finance and Accounting Service implemented the following time and attendance codes for use of the two types of leave under the FFCRA:

- Emergency Family and Medical Leave Expansion Act leave will be coded in time and attendance systems using “LV-Excused Absence” and environmental hazard code “DZ”
- Emergency Paid Sick Leave Act will be coded in time and attendance systems using “LV-Excused Absence” and environmental hazard code “DX” for emergency paid sick leave paid at an employee’s full rate of pay, and environmental hazard code “DY” for emergency paid sick leave paid at two-thirds an employee’s rate of pay

These leave codes are not programmed to account for the different rates of pay that may apply, and will not prevent an employee from taking leave over the statutory limits under the FFCRA, nor enforce the statutory caps on daily or aggregate pay. Thus, DoD Components should develop guidance and procedures for employees that make clear leave under the FFCRA may result in debt that will be collected at a later date. Employees will be ineligible to submit a debt waiver for this overpayment.