



## **Families First Coronavirus Response Act (FFCRA) Guidelines**

### **Statement of Policy**

It is the policy of New Mexico State University to comply with the requirements of the Federal Families First Coronavirus Response Act (FFCRA). The FFCRA provides employees with Emergency Paid Sick Leave (EPSL) and Emergency Paid Family and Medical Leave (EFMLA) for those affected by the COVID-19 pandemic, from April 1, 2020 through December 31, 2020. NMSU reserves the right to interpret, change, modify, amend, or rescind these guidelines in whole or in part at any time without the consent of employees.

### **Two Types of Leave Covered Under FFCRA**

#### **1) Emergency Paid Sick Leave (EPSL)**

Emergency paid sick leave will be available for an employee who is unable to work or telework because:

1. The employee is subject to a federal, state, or local quarantine or isolation order related to COVID-19;
2. The employee has been advised by a health care provider to self-quarantine because of COVID-19;
3. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis;
4. The employee is caring for an individual subject (or advised) to quarantine or isolation;
5. The employee is caring for a son or daughter whose school or place of care is closed, or childcare provider is unavailable, due to COVID-19 precautions; or
6. The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

#### **Eligibility for EPSL**

All employees, regardless of their tenure, with full-time or part-time status are eligible to receive this benefit. Health care providers and emergency responders may be excluded on a case-by-case basis.

#### **Paid Benefits for EPSL**

Eligible employees will receive up to two weeks of paid sick leave.

- Full-time employees: 80 hours at their regular rate of pay, subject to caps and reasons noted below.
- Part-time employees: the number of hours that the employee works, on average, over a two-week period, subject to caps and reasons noted below.

Payments are capped at \$511 a day (\$5,110 in total) for dealing with an employee's own illness or quarantine (reasons 1, 2 and 3 above).

Employees who are caring for an individual affected by COVID-19 and those whose children's schools have closed (reasons 4, 5 and 6 above) receive up to two-thirds of their pay, and that benefit is limited to \$200 a day (\$2,000 in total).

#### **Return to Work Following EPSL**

Employees are required to follow guidelines established by the [Centers for Disease Control and Prevention](https://www.cdc.gov) as it relates to ceasing home isolation practices.

#### **2) Emergency Family Medical Leave Act (EFMLA) Expansion**

Employees will be entitled to take up to 12 weeks of job-protected leave if an employee is unable to work (or telework) due to caring for the employee's son or daughter (who is under 18) because the child's school or place of care has been closed or his or her childcare provider is unavailable due to the public health emergency.

#### **Eligibility for EFMLA**

Under this policy, full-time and part-time employees who have been on NMSU payroll for 30 days, prior to taking the leave, are eligible for leave. Health care providers and emergency responders may be excluded on a case-by-case basis.

#### **Paid Benefits for EFMLA**

The EFMLA provides for a combination of unpaid and paid leave.

- The first 10 days of EFMLA may be unpaid. An eligible employee may choose to take any existing pay benefit (i.e. annual, sick, or faculty care leave) during the 10-day unpaid period, or the 10 days may be paid under emergency paid sick leave, if taken for a qualifying reason.
- After ten days of unpaid leave, eligible employees are entitled to 10 weeks of job-protected leave of two-thirds their usual pay. Part-time employees are entitled to be paid two-thirds of their usual pay based on the average number of hours worked for the six months prior to taking the leave.
- The cap of the paid leave entitlement for employees is \$200 per day (\$10,000 in the aggregate).

#### **Coordination with FMLA**

A total of 12 workweeks of FMLA leave during a rolling 12 month calendar measured backward is available under FMLA including EFMLA. All leave taken under EFMLA will be counted toward the FMLA entitlement and EFMLA will be reduced by FMLA taken in the preceding 12 month period.

#### **Leave Type**

Leave taken under FFCRA may be taken intermittently or on a reduced schedule with prior supervisor approval.

#### **Notice of the Need for FFCRA Leave**

Employees should request their need for emergency paid leave as soon as possible, by notifying their supervisor and submitting applicable form(s) and any applicable documentation to Human Resource Services as soon as practicable. If an employee is incapacitated, the employee's representative should give verbal notice as soon as possible. Calling in "sick" does not qualify as adequate notice. An employee must provide sufficient information regarding the reason for an absence for NMSU to know which of the listed reasons applies.

#### **Insurance Benefit Continuation during FFCRA Leave**

Coverage under group health insurance will continue while on leave, but employees must continue to pay their portion of the premium. Other employment benefits such as group life insurance, AD&D, etc. will also be continued during the leave, as long as the employee continues to pay any required contribution. Payment arrangements will be discussed with individuals, as needed, upon their request for leave.

#### **Rights Upon Return from FFCRA Leave**

An employee who takes leave under this policy may be reinstated to the same job or an equivalent position upon completion of the leave. If an individual has exhausted all leave under this policy and is still unable to return to work, the situation will be reviewed on a case-by-case basis to determine what rights and protections might exist.

The law provides that an employee has no greater rights upon a return from leave than the individual would have had if they had continued to work. Therefore, an employee may be affected by a layoff, reorganization, furlough, change in job duties or other change in employment if the action would have occurred had the employee remained actively at work.

#### **Certification for FFCRA Leave**

Employees may be required to provide appropriate documentation in support of the reason for the leave. Documentation may include a copy of the Federal, State or local quarantine or isolation order related to COVID-19; written documentation by a health care provider advising you to self-quarantine due to concerns related to COVID-19; or notice of closure or unavailability from your child's school, place of care or child care provider, including a notice that may have been posted on a government, school or day care website, published in a newspaper, or email to you from an official of the school or care provider.

#### **Guidelines Enforcement:**

Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully take 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 the US Department of Labor's Wage and Hour Division.

#### **Employee Trust**

Providing false or misleading information regarding the need for EFMLA or any FFCRA qualifying event will be grounds for disciplinary action.