



STATE OF NEVADA
DEPARTMENT OF ADMINISTRATION
Division of Human Resource Management
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MEMORANDUM

HR#33-20

April 7, 2020

TO: Directors
Deputy Directors
Administrators
Agency Personnel Liaisons

FROM: Peter Long, Administrator *Peter Long*
Division of Human Resource Management

SUBJECT: FAMILIES FIRST CORONAVIRUS RESPONSE ACT (FFCRA)

On March 18, 2020, the federal Families First Coronavirus Response Act (FFCRA) was signed into law. The provisions relating to paid leave and the expansion to the Family and Medical Leave Act (FMLA) became effective April 1, 2020 and expire on December 31, 2020.

At this time, there is no need for the State to implement the provisions of this Act. 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.

“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:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;

4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
 5. is caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19; or
 6. is experiencing any other substantially-similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.”
- (U.S. Department of Labor, Wage and Hour Division (WHD))

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.

The FFCRA provides paid leave for two weeks (up to 80 hours) for the above-mentioned leave events and up to an additional 10 weeks of paid expanded FMLA where an employee is unable to work due to a bona fide need for leave to care for a child whose school or childcare provider is closed or unavailable for reasons related to COVID-19. An employee who has been employed for at least 30 calendar days is eligible for the expanded FMLA provision. The FMLA eligibility criteria (i.e., 12 months of employment and 1,250 hours in paid status in the previous 12 months) required for other FMLA qualifying leave events are not applicable to this expanded basis for FMLA.

The FFCRA excludes employees who are health care providers and emergency responders. The WHD provides clarification on what groups of employees fall within these exceptions. The WHD also states that where an employee has already taken some FMLA leave in the current twelve-month 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. Employers may not discharge, discipline, or otherwise discriminate against any employee who takes paid sick leave under the FFCRA and files a complaint or institutes a proceeding under or related to the FFCRA.

If your agency has not already done so, it may be advisable to review your attendance and leave policy(s) for the flexibility to respond to the ongoing COVID-19 pandemic. Policy amendments can be a temporary measure, sunsetting on a set date or upon later notice. Additionally, during the COVID-19 pandemic, it may be advisable to temporarily discontinue requiring FMLA medical certifications, as they are not mandated in the federal regulations, due to the current demands upon the health care providers in our communities. (29 CFR §825.305(a))

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)

The Division of Human Resource Management is committed to assisting agencies and will provide additional information and further guidance as necessary.