



SHEET METAL & AIR CONDITIONING  
CONTRACTORS' NATIONAL ASSOCIATION

# New State COVID-19 Liability Laws





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## Proposed “SAFE TO WORK” Act

- Cites a “risk of a tidal wave of lawsuits” accusing businesses of exposing people to COVID-19.
- The proposed bill (S. 4317) would impose strict nationwide limitations on COVID-19-related tort liability.
- As proposed, it would apply retroactively.



## “SAFE TO WORK” Act (cont.)

- To avoid immunity, the potential plaintiff would have to prove by “clear and convincing evidence” that the defendant:
  - (1) “was not making reasonable efforts in light of all the circumstances to comply with applicable government standards and guidance in effect at the time”;
  - (2) “engaged in gross negligence or willful misconduct” that caused an actual exposure to coronavirus; and
  - (3) “the actual exposure caused personal injury to the plaintiff.”



## Patchwork of State Laws

- Many states have enacted legislation limiting COVID-19-related civil liability for a broad range of businesses.
  - Iowa, Georgia, Kansas, Louisiana, Mississippi, North Carolina, Oklahoma, Utah, and Wyoming



## Patchwork of State Laws

- Other states have passed laws protecting specific industries, such as PPE manufacturers and healthcare providers.
  - Alaska, Kentucky, Massachusetts, New Jersey, New York, Ohio and Wisconsin
- Details of each state civil immunity law vary widely, including who qualifies for immunity, what acts or omissions are protected, and how long the immunity lasts.



## Employer's Duty to Bargain

- Mid-term Modifications
  - There is no legal duty to bargain in response to a union's proposed mid-term modification of the parties' contract.
- Avoid Unilateral Changes
  - Changes to employees "terms and conditions" of employment without notice and an opportunity to bargain.
  - Procedural right, not a substantive right.



## Duty to Bargain (cont.)

- Key Question: **“Is it forbidden by the CBA?”**
  - If not, Union may have a procedural right to have notice and an opportunity to bargain over the change, but not a substantive right to stop you from making the change.
- Avoid Extraneous Contract Language
  - No need to add new language via MOU, etc.
  - A contractor is required to do what is required by the law, so no need to include additional contract language.





# Step-by-Step Plan for Implementation

- **Step #1**—Prepare the policy, procedure, or posting, so that it's in its “final form.”
- **Step #2**—Provide the Union with a copy of what you're proposing to do.
  - Do not concede that bargaining is required.
  - Instead, simply invite a “discussion”: *“If you would like to discuss this [new policy], please let me know as soon as possible.”*



## Step-by-Step Plan (cont.)

- **Step #3**—
  - If the Union doesn't respond to your inquiry, move to Step #4.
  - If the Union wants to discuss, then discuss with the Union. Remember, in the absence of contrary CBA language, ***you are under no obligation to change your plans.***
- **Step #4**—Implement the policy, procedure, or posting.



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# COVID-19 Leave Law Case Studies

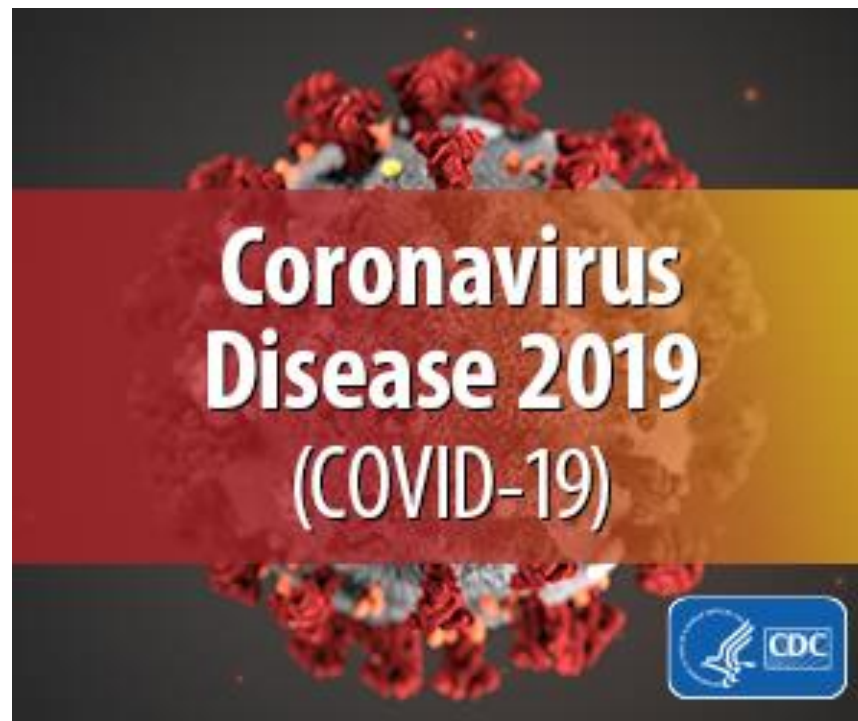




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# An Overview of the FFCRA – the General Purpose and Rationale





## FFCRA Basics

- Enacted March 18, 2020
- Effective **April 1, 2020**
- Two New Paid Leave Provisions:
  1. **Public Health Emergency Leave (“E-FMLA”)**
  2. **Emergency Paid Sick Leave (“E-PSL”)**
- Leaves expire on December 31, 2020



## FFCRA Basics (cont.)

- Costs of providing paid E-FMLA and E-PSL are designed to be offset 100% by payroll tax credits.
- Credits are capped, but the caps are designed to align with the maximum payouts to employees under the FFCRA.
  - Payments are tied to the “regular rate” as defined by the FLSA.



## FFCRA Basics (cont.)

- DOL issued its regulations on **April 6** (effective April 1).
- DOL's regulations were subject to immediate challenge by states, including NY, arguing that the regulations were too “employer-friendly.”





## DOL Regulations Invalid?

- On Aug. 3, 2020, a federal judge in NY **invalidated** four portions of the DOL rules:
  - (1) “Work availability” requirement;
  - (2) Definition of the “health care provider”;
  - (3) Intermittent leave provision; and
  - (4) Provision requiring an employee to provide documentation ***before*** taking leave.



## What Now?

- To date, the DOL has not responded to the decision.
  - An appeal by the DOL is likely, but has not happened yet.
  - Continue to monitor, but be careful when denying leave based on these portions of the DOL's rules.



# Employer and Employee Coverage





## Private Employers

- All ***private*** employers with “***fewer*** than 500 employees”
  - Includes all FT, PT, temp, employees on leave, and jointly employed employees.
  - Include employees of a related company if you meet “integrated employer test.”
  - Calculated “at the time the EE would take leave.”



## Employees Subject to a CBA

- No exemption, so FFCRA applies.
- There is an “alternative method of compliance” for employers subject to a multiemployer CBA.
  - However, requires the creation of a separate fund and employers to pay the same amounts into the fund (rather than to employees).
  - Employees could then, in turn, draw benefits from the fund.



## “Small” Employers

- Small employers with fewer than 50 employees can be exempted **only if** the employer meets (and can document) one of the following:
  - (i) Providing the requested leave would result in the business’s “expenses and financial obligations exceeding available business revenues and cause the small business to cease operating at a minimal capacity”; **or**



## “Small” Employers (cont.)

- (ii) The employee’s absence would entail a “substantial risk to the financial health or operational capabilities of the business because of their specialized skills, knowledge of the business, or responsibilities”;  
or
- (iii) “There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the Employee or Employees requesting [E-FMLA or E-PSL], and these labor or services are needed for the small business to operate at a minimal capacity.”



## Employee-based Exemption

- Discretionary exemption for “**Health Care Providers**” and “**Emergency Responders.**”
  - HCP includes “*anyone* *employed at any . . .* hospital, health care center, clinic, . . . nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or *any similar* institution, employer, or entity.”
  - The definition also includes contractors who work at the location.





## Exempt Employees (cont.)

- Location-based exemption.
  - Likely does not include corporate office employees employed at a separate facility.
- Employer has the ability to “elect” to exclude the individual from the requirements of each form of leave.
- Regulations use term “and/or” suggesting that employers can choose to provide HCPs with E-PSL but not E-FMLA.



## Poster

- Notice must be posted “in a conspicuous place where employees or job applicants at a worksite may view it.”
  - Available at:  
[https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/FFCRA-Employee\\_Paid\\_Leave\\_Rights.pdf](https://www.dol.gov/sites/dolgov/files/WHD/Pandemic/FFCRA-Employee_Paid_Leave_Rights.pdf).
- Employer can also comply by distributing electronically (e.g., email or intranet) or via U.S. mail.



# EMPLOYEE RIGHTS

## PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

### ► PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$  for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at  $\frac{2}{3}$  for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

### ► ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

### ► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

- |   |   |
|---|---|
| 1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;              | 5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or |
| 2. has been advised by a health care provider to self-quarantine related to COVID-19;                       | 6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.                           |
| 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); |   |

### ► ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes 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 WHD.



WAGE AND HOUR DIVISION  
UNITED STATES DEPARTMENT OF LABOR

For additional information  
or to file a complaint:  
**1-866-487-9243**  
TTY: 1-877-889-5627  
[dol.gov/agencies/whd](https://dol.gov/agencies/whd)



WH1422 REV 03/20



# A Step-by-Step Walk Through the New E-PSL and E-FMLA – and How They Coordinate



E-FMLA =





## E-FMLA

- The FFCRA amends the FMLA to provide employees with up to 12 weeks of job-protected E-FMLA leave between April 1 and Dec. 31.
- Eligibility Expanded:
  - Employee must be on payroll for last 30 days.
  - Includes rehired employees laid off after March 1 who worked 30 of the preceding 60 days.



## E-FMLA (cont.)

- Available **only if** employee can't work because child's school is closed or daycare is unavailable "due to COVID-19 related reasons."
- Total of 12 weeks of E-FMLA:
  - First 10 days (or 2 weeks) are unpaid.
  - Remaining leave (up to 10 weeks) are paid at 2/3 of "average regular rate."
- Pay is capped at **\$200 per employee per day** (or **\$10,000** in total).



## Example #1

- We have a worker with school-aged children and the school has moved to a “hybrid” model for the fall.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?







## **DOL FAQ #98**

*“You are eligible to take paid leave under the FFCRA on days when your child is not permitted to attend school in person and must instead engage in remote learning, as long as you need the leave to actually care for your child during that time and only if no other suitable person is available to do so. For purposes of the FFCRA and its implementing regulations, the school is effectively “closed” to your child on days that he or she cannot attend in person. You may take paid leave under the FFCRA on each of your child’s remote-learning days.”*



## Example #2

- The child's school is giving parents a choice between having my child attend in person or participate in a remote learning program for the fall. The employee signed up for remote learning because of concerns regarding COVID-19.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?



## **DOL FAQ #99**

*“No, you are not eligible to take paid leave under the FFCRA because your child’s school is not “closed” due to COVID–19 related reasons; it is open for your child to attend. FFCRA leave is not available to take care of a child whose school is open for in-person attendance. If your child is home not because his or her school is closed, but because you have chosen for the child to remain home, you are not entitled to FFCRA paid leave. However, if, because of COVID-19, your child is under a quarantine order or has been advised by a health care provider to self-isolate or self-quarantine, you may be eligible to take paid leave to care for him or her.”*

**E-PSL**

**=**





## E-PSL

- Employers must provide **all** employees with a **new** bank of E-PSL that can be used as a result of absences related to COVID-19.
- E-PSL Bank (up to 80 hours):
  - Full-time = 80 hours
  - Part-Time = Weekly Scheduled Hours x 2
  - 6 month average for irregular hours
- E-PSL is immediately available for use between April 1 and Dec. 31.



## E-PSL Uses

**Employee is unable to work or telework because:**

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



## E-PSL Uses (cont.)

**Employee is unable to work or telework because:**  
(cont.)

4. EE is ***caring for*** an individual subject or advised to quarantine or isolation;
5. EE is ***caring for*** a son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19; or
6. EE is experiencing substantially similar conditions.



## E-PSL Uses (cont.)

- “Quarantine or Isolation Order”
  - Includes “orders that advise some or all citizens to ***shelter in place***, stay at home, quarantine, or otherwise restrict their own mobility.”
- An employee is eligible for E-PSL ***only if*** being subject to the order prevents the employee from working or teleworking.
- **Key Question:** “Is the employee able to work ‘***but for***’ being required to comply with a quarantine or isolation order?”





## Example #3

- A general contractor is forced to close down a construction site because of California's latest "shelter-in-place" order. The contractor does not have any other work for its employees.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?



## **DOL FAQ #50**

*For purposes of the FFCRA, a Federal, State, or local quarantine or isolation order **includes** quarantine or isolation orders, as well as shelter-in-place or stay-at-home orders, issued by any Federal, State, or local government authority that cause you to be unable to work (or to telework) even though your employer has work that you could perform but for the order. You may **not** take paid sick leave for this qualifying reason **if your employer does not have work for you as a result of a shelter-in-place or a stay-at-home order.***



## Example #4

- California's "shelter-in-place" order exempts construction workers and the construction site remains open.
- What if the employee is traveling from Nevada and California requires a 2-week quarantine for any interstate travel.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?



## **DOL FAQ #87**

*For example, if you are prohibited from leaving a containment zone and **your employer remains open outside the containment zone** and has work you cannot perform because you cannot leave the containment zone, **you may take paid leave under the FFCRA**. Similarly, if you are ordered to stay at home by a government official for fourteen days because you were on a cruise ship where other passengers tested positive for COVID-19, and your employer has work for you to do, you are also entitled to paid sick leave if you cannot work (or telework) because of the order. If, however, **your employer closed one or more locations because of a quarantine or isolation order and, as a result of that closure, there was no work for you to perform**, you are **not** entitled to leave under the FFCRA and should seek unemployment compensation through your State Unemployment Insurance Office.*



## E-PSL Pay

- Paid at the employee's "average regular rate" over a 6 month period.
  - "Regular rate" is defined by FLSA.
- E-PSL is capped depending on usage:
  - **\$511 per day** (\$5,110 in the aggregate) if the leave is taken for an employee's own illness or quarantine.
  - **\$200 per day** (\$2,000 in the aggregate) if the leave is taken for the care of others or school closures.



## Coordinating E-FMLA and E-PSL

- During first 2 weeks of E-FMLA, employee may elect to use E-PSL (also paid at 2/3 of the “average regular rate”).
- During E-FMLA period, the employer and employee may agree to “supplement” the 2/3 wages with existing PTO or other accrued leave.



# Coordinating E-FMLA and E-PSL

Week	1	2	3	4	5	6	7	8	9	10	11	12
E-PSL	2/3 pay*	2/3 pay*	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0
E-FMLA	\$0	\$0	2/3 pay*	2/3 pay*	2/3 pay*	2/3 pay*	2/3 pay*	2/3 pay*	2/3 pay*	2/3 pay*	2/3 pay*	2/3 pay*

\*Note: up to \$200 per day



## Example #5

- An employee doesn't want to come to work because they have a new baby at home, elderly parents/grandparents/some other "high risk" family member.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?





## **DOL FAQ #61**

### ***When am I eligible for paid sick leave to self-quarantine?***

*You are eligible for paid sick leave if a health care provider directs or advises you to stay home or otherwise quarantine yourself because the health care provider believes that you may have COVID-19 or are particularly vulnerable to COVID-19, and quarantining yourself based upon that advice prevents you from working (or teleworking).*



## Example #6

- An employee was exposed to a COVID-19 positive coworker or family member.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?



## **DOL FAQ #94**

*A company may require any employee who knows he has interacted with a COVID-infected person to **telework** or **take leave** until he has personally **tested negative for COVID-19 infection**, regardless of whether he has taken any kind of leave. Such a policy would apply equally to an employee returning from paid sick leave. However, you may not require the employee to telework or be tested for COVID-19 simply because the employee took leave under the FFCRA.*



## **EEOC FAQ #A.6**

***May an employer administer a COVID-19 test (a test to detect the presence of the COVID-19 virus) before permitting employees to enter the workplace?***

*The ADA requires that any mandatory medical test of employees be “job related and consistent with business necessity.” Applying this standard to the current circumstances of the COVID-19 pandemic, employers may take steps to determine if employees entering the workplace have COVID-19 because an individual with the virus will pose a direct threat to the health of others. Therefore an employer may choose to administer COVID-19 testing to employees before they enter the workplace to determine if they have the virus.*



## **EEOC FAQ #A.8**

***May employers ask all employees physically entering the workplace if they have been diagnosed with or tested for COVID-19?***

*Yes. Employers may ask all employees who will be physically entering the workplace if they have COVID-19 or symptoms associated with COVID-19, and ask if they have been tested for COVID-19. Symptoms associated with COVID-19 include, for example, fever, chills, cough, and shortness of breath. The CDC has identified a current list of symptoms.*

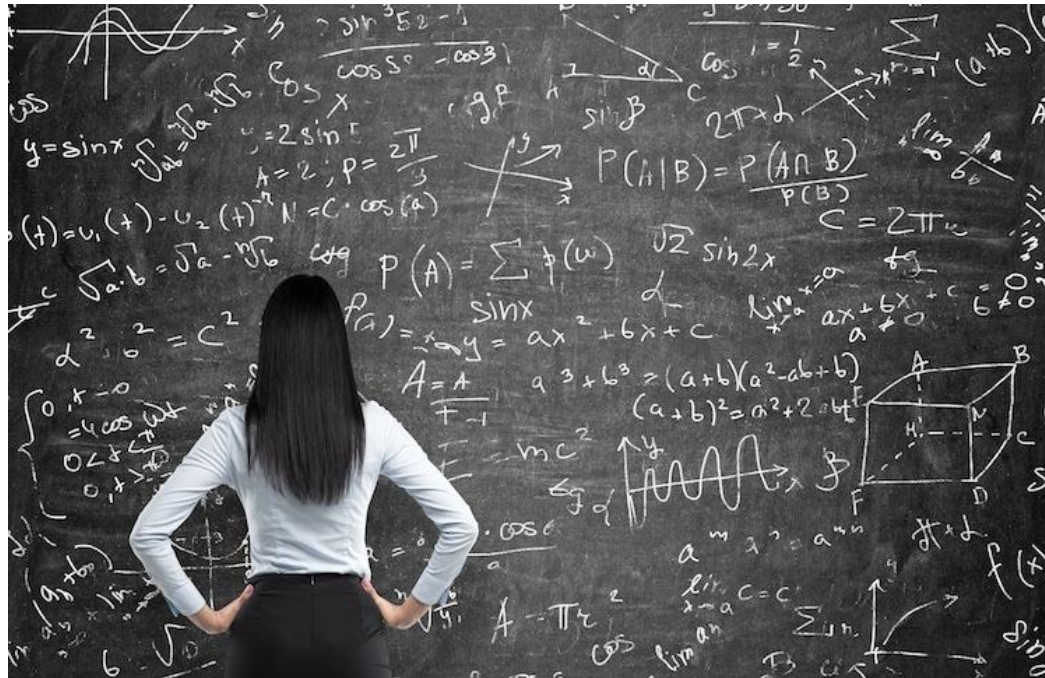


## **EEOC FAQ #A.11**

***What may an employer do under the ADA if an employee refuses to permit the employer to take his temperature or refuses to answer questions about whether he has COVID-19, has symptoms associated with COVID-19, or has been tested for COVID-19?***

*Under the circumstances existing currently, the ADA allows an employer to bar an employee from physical presence in the workplace if he refuses to have his temperature taken or refuses to answer questions about whether he has COVID-19, has symptoms associated with COVID-19, or has been tested for COVID-19. . . .*

# Calculating the “Regular Rate”





## Calculating the “Regular Rate”

- “[A]ll [non-overtime] remuneration for employment paid to the employee except for eight statutory exclusions, divided by the number of hours worked in that workweek.”
  - Includes more than just the employee’s hourly rate (e.g., nondiscretionary bonuses, on-call pay, etc.)
  - Unless the payment fits into one of the statutory exclusions, it must be included in the regular rate calculation.





## **“Regular Rate” Exclusions**

1. Sums paid as gifts;
2. Payments for time not worked (e.g., vacation, sick);
3. Reimbursement for expenses;
4. Discretionary bonuses;
5. Profit sharing plans;
6. Contributions to third-party trust funds (e.g., health insurance, retirement, etc.);
7. Voluntary overtime premium payments; and
8. Stock options.



## Continuation of Health Insurance

- Regulations require continuation of “group health insurance” during E-FMLA and E-PSL:
  - “While an Employee is taking [E-PSL] or [E-FMLA], an Employer must maintain the Employee’s coverage under any group health plan . . . ***on the same conditions*** as coverage would have been provided if the Employee had been continuously employed during the entire leave period.”
- Additional tax credits (above the caps) for “qualified health plan expenses.”



## What about Fringes?

- The FFCRA and DOL regulations do not directly address the issue.
  - But, as noted above, the definition of “***regular rate***” specifically **excludes** “**contributions to third-party trust funds.**”
- That said, a Fund may take a different position depending on CBA language, trust documents, etc.
  - “Hours worked” vs. “Hours Paid”
- Note that health insurance contributions are eligible for additional tax credits.



## Documentation

- Employers should, at the very least, maintain:
  - The employee's name;
  - The date or dates for which leave is requested;
  - A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
  - A statement that the employee is unable to work, including by means of telework, for such reason.
- Additional documentation depending on the type of leave (e.g., name of HCP, name of school, etc.)



## FMLA Paperwork

- The DOL did not adopt any requirement that employers “respond to employees who request or use [E-FMLA] with notices of eligibility, rights and responsibilities, or written designations that leave use counts against employees’ FMLA leave allowances.”
- However, the DOL makes clear that employers that are used to using the DOL forms may continue to do so.



## Tax Credits

- Full amount of qualified E-PSL and E-FMLA payments and “qualified health plan expenses.”
- Reimbursement via **IRS Form 941** (Employer’s Quarterly Federal Tax Return).
- IRS also permits an employer to request advance payment by completing **IRS Form 7200**.



## Potential Liability

- E-FMLA
  - Employer is subject to ***same liability provisions under the FMLA***, except that employers smaller than 50 employees are exempt from a private action.
- E-PSL
  - Employer is considered to have ***failed to pay minimum wages*** under FLSA.



## Liability (cont.)

- Constance v. Hollybrook Golf & Tennis Club, 20-cv-61312-WPD (filed 7/1/20)
  - Plaintiff tested positive and ordered to quarantine.
  - Plaintiff alleges that the employer violated the FFCRA by forcing him to use his PTO for his COVID-19 isolation period.



# Layoffs and Furloughs





## Laid-Off or Furloughed Workers

- Employees are not eligible for E-PSL or E-FMLA if they are laid off or if their employer does not otherwise have work for them.
- The same is true if the employee's worksite closes (regardless of reason).



## Example #7

- Funding falls through on a construction project as a result of the COVID-19 pandemic. All contractors lose work on the jobsite.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?



## **DOL FAQ #26**

*“If your employer furloughs you because it does not have enough work or business for you, you are not entitled to then take paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility.”*



# Interplay Between the New FFCRA with the FMLA, ADA and State Law





## Coordinating with FMLA and ADA

- FMLA Eligibility:
  - 50+ employees (75-mile radius)
  - 1,250 hours in preceding 12 months
  - “Serious health condition”
- ADA Eligibility:
  - 15 or more employees
  - Available to employees and applicants
  - Suffer from a “disability”



## Coordinating E-FMLA and FMLA

- 12 weeks is the maximum amount of leave (unless military leave).
  - Some or all FMLA in the same leave year reduces eligibility for E-FMLA.
- Traditional FMLA requires regular eligibility criteria:
  - 1 year of service and 1,250 hours.
  - 50 employees in a 75 mile radius.
- Because E-FMLA is “not unpaid,” employer cannot require substitution of paid leave.



## Don't Forget About Other PSL Mandates

- E-PSL and E-FMLA are in addition to any paid sick leave mandated by state or local law (e.g., California, New York, etc.)
- In addition to paid sick leave, some states have their own COVID-19 leave.
  - New York, for example, has its own COVID-19 paid leave that “supplements” FFCRA leave, so employers must track both state and federal requirements.





## Example #8

- An employee is afraid to come to work because of contracting COVID-19.
  - Is the employee eligible for leave?
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?
  - FMLA?
  - ADA?



## **EEOC FAQs**

***Is an employee entitled to an accommodation under the ADA in order to avoid exposing a family member who is at higher risk of severe illness from COVID-19 due to an underlying medical condition?***

*No. Although the ADA prohibits discrimination based on association with an individual with a disability, that protection is limited to disparate treatment or harassment. The ADA does not require that an employer accommodate an employee without a disability based on the disability-related needs of a family member or other person with whom she is associated.*

*For example, an employee without a disability is not entitled under the ADA to telework as an accommodation in order to protect a family member with a disability from potential COVID-19 exposure.*



## Example #9

- What if the employee has ***diabetes*** and is concerned that coming to work will put them at risk for COVID-19.
  - Is the employee eligible for leave?
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?
  - FMLA?
  - ADA?



## Example #10

- What doesn't want to come to work even though they are not "high risk," but they "don't want to take the risk" and want to stay home during the pandemic.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?
  - FMLA?
  - ADA?
- What about issues of discrimination?



## Example #5 (Redux)

- An employee doesn't want to come to work because they have a new baby at home, elderly parents/grandparents/some other "high risk" family member.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?
  - FMLA?
  - ADA?



## Example #6 (Redux)

- An employee was exposed to a COVID-19 positive coworker of family member.
- Protected Leave Analysis
  - E-FMLA?
  - E-PSL?
  - FMLA?
  - ADA?



**QUESTIONS?**

Thank you.

