

Payroll Protection Program Loans and Legally Mandated Emergency Leaves

Legally Mandated Emergency Leaves (Mandated by the Families First Coronavirus Response Act)

All employers of 500 employees or less are required to provide these two types of leave as of April 1 through December 31, 2020.

Emergency Paid Sick Leave (EPSL)

As of April 1, 2020 if an employee is:

1. Subject to quarantine or isolation order related to COVID 19
2. Advised by health care advisor to self-quarantine
3. Experience symptoms of COVID 19 AND seeking a medical diagnosis

Employer must provide 100% of pay up to \$511 per day for 10 days for a total of \$5,110

As of April 1, 2020 if an employee is:

4. Caring for an individual subject or advised to quarantine or isolation
5. Caring for son or daughter whose school or place of care is closed due to COVID 19 precautions
6. Experiencing substantially similar conditions as specified by the Secretary of Health and Human Services in consultation with the Secretaries of Labor and Treasury

Employer must provide receive 75% of pay max \$200/day for 10 days

Qualifying Documentation (as of 4/2/2020)

The Department Of Labor/IRS require the employee to provide a signed statement to the employer containing (From the Society for Human Resource Management):

- The employee's name.
- The date(s) for which leave is requested.
- The coronavirus-qualifying reason for leave.
- A statement that the employee can't work or telework because of this reason.
- If reason 1 above, the name of the government entity that issued the quarantine or isolation order to which the employee is subject
- If for reason 2 the name of the health care provider making the quarantine recommendation.
- If for reason 4 either the government entity that issued the quarantine or isolation order or the name of the health care provider who advised the individual to self-quarantine.
- If for reason 5 the name of the child being cared for, the name of the school, place of care or childcare provider that closed or became unavailable due to coronavirus reasons, and a statement representing that no other suitable person is available to care for the child during the period of requested leave.

Emergency Family Medical Leave Act

As of April 1, 2020 if you are

- Caring for son or daughter whose school or place of care is closed due to COVID 19 precautions (After 2 weeks on EPSL)
- You may receive \$200/day for up to 50 additional days (10 weeks)

Qualifying Documentation

The Department Of Labor/IRS require the employee to provide a signed statement to the employer containing (From the Society for Human Resource Management):

- The name and age of the child being cared for.
- The name of the school, place of care or child care provider that closed or became unavailable due to coronavirus reasons.
- A statement representing that no other suitable person is available to care for the child during the period of requested leave.
- With the care of a child older than 14 during daylight hours, a statement that special circumstances exist requiring the employee to provide care. (only if the employer is requesting reimbursement through payroll taxes)

Additional Guidance on EFMLA leave (From Society for Human Resource Management):

Intermittent and incremental use of EFMLA An employee who is unable to telework during his or her normal work hours because a child's school or childcare provider is unavailable due to coronavirus-related reasons may have intermittent EFMLA leave if the employer agrees to it, the DOL stated.

For example, if the employer and the employee agree, the worker may take EFMLEA leave on Mondays, Wednesdays and Fridays but work Tuesdays and Thursdays. The DOL encourages flexibility in intermittent leave and said intermittent EFMLEA leave may be voluntarily made on a day-by-day basis.

Intermittent leave may be taken in any increment for EFMLEA leave, provided the employer and the employee agree. For example, an employee could telework from 1-2:30 p.m., take leave from 2:30-4 p.m., and then return to teleworking

The normal FMLA certification rules apply to an employee's own serious health condition related to the coronavirus and to the employee's need to care for a spouse, son, daughter or parent with a serious health condition.

If an employee fails to give proper notice, the employer should give him or her notice of the failure and an opportunity to provide the required documentation prior to denying the request for leave, the regulations state.

Employers are eligible for Payroll tax credits to pay for these two Types of Emergency Leave

IRS Guidance (From Society for Human Resources Management)

The IRS issued guidance stating that eligible employers claiming tax credits for qualified leave wages "must retain records and documentation related to and supporting each employee's leave to substantiate the claims for the credits." Such employers also must retain:

- Form 941, Employer's Quarterly Federal Tax Return.
- Form 7200, Advance of Employer Credits Due to COVID-19.
- Any other applicable filings made to the IRS requesting the credit.
- Documentation from the employee as outlined above

- Documentation to show how the employer determined the amount of qualified sick- and family-leave wages paid to employees, including records of work, telework, qualified sick leave and qualified family leave.
- Documentation to show how the employer determined the amount of qualified health plan expenses that it allocated to wages.

The Partnership recommends working with your payroll professionals to complete all required applications for reimbursement through Payroll Tax credits.

IMPORTANT: If your agency receives a Payroll Protection Program Loan (described below), your agency is not eligible for the Payroll Tax Credit referenced above. However, the leave is still mandated.

Other resources for Emergency Paid Leave:

DOL FAQs <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

IRS Information page <https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>

[FFRCA Poster for Employees](#)

Payroll Protection Program Loans through the Small Business Administration

Available April 3- June 30, 2020

The new Payroll Protection Program loan program, authorized under Congress' "Coronavirus Aid, Relief, and Economic Security" or CARE Act for COVID 19 relief is available for non-profit organizations with fewer than 500 employees.

You do not have to demonstrate current revenue loss.

The loan is up to 100% forgivable, if it is used for payroll, rent or mortgage interest (not principal), and certain utilities during an 8-week period after the loan, and if you maintain the same # of staff (including some contractors) and payroll for those 8 weeks. Otherwise there amount eligible for forgiveness will be reduced. We also understand that if the principal of the loan is forgiven, any interest accrued is still owed. The SBA has set the interest rate at 1% as of 4/2/2020. Keep in mind that interest may not be charged to any Federal funders.

[PPP Loan Resources](#)

[The Application is available here](#) and electronic on lender's websites. Applications are being accepted through SBA partner banks starting April 3, 2020.

See this [list](#) (not exhaustive) or call your banking institution to find out if they are an SBA lender.

The Partnership has heard rumors that SBA approved lenders are prioritizing their own customers and requiring applicants to open accounts with them before processing loans. Therefore, it make take some time to find a lender willing to work with you if your bank is not a SBA lender.

[A Sample of Calculations for the application is here.](#)

[See an info graphic on the PPP Loans here.](#)

A good blog post that breaks it all down including calculations.
<https://www.seyfarth.com/news-insights/nonprofit-guide-to-the-cares-act-including-those-loans-youve-been-hearing-about-to-cover-payroll-and-that-dont-need-to-be-paid-back.html>

A note on the Economic Injury Disaster Loans

This application is much more involved and time consuming asking for much more back up than the PPP loans. NNEDV suggest proceeding with caution if your agency is pursuing one of these larger loans. Federal Guidance disallows interest payments with f Federal funds. Additionally, if any of this loan is forgiven it becomes a grant and may be considered supplanting or program income. At this time, the Partnership is not able to provide more guidance.

See the Chart from the National Council of Non-Profits on the types of loans available.

<https://www.councilofnonprofits.org/trends-policy-issues/loans-available-nonprofits-the-cares-act-public-law-116-132>