

Families First Coronavirus Response Act (FFCRA) FAQs

- 1) What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?**

The FFCRA's paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020 and December 31, 2020.

- 2) Are the new paid leave benefits in addition to paid leave policies already in place? Can employees supplement the two-thirds of pay with existing leave to equal 100% of pay?**

Yes, the emergency paid sick leave is in addition to current leave policies within the Town of Christiansburg. Employees may use their personal accrued leave balances to supplement the 10 weeks of expanded FMLA leave paid at two-thirds the regular rate of pay.

- 3) Would an employee who is afraid of coming to work and contracting COVID-19 be eligible for paid sick leave?**

No, an employee's concern for contracting the virus is not included within the six allowable reasons for leave. The employee, however, may request compensatory, annual or PTO leave using the leave request procedures currently in place.

- 4) Can employees continue to use the Negative Leave Balances as implemented in the *Personnel Operating Procedure Emergency Response to COVID-19*?**

No. The provisions of the Emergency Paid Sick Leave Act replace the Negative Leave Balances section in the *Personnel Operating Procedure Emergency Response to COVID-19* previously implemented on March 16, 2020. The Emergency Paid Sick Leave Act provides up to 80 hours of paid sick leave for employees experiencing illness related to COVID-19, caring for an ill family member or staying at home with children due to school or childcare closures.

- 5) Are the 12 weeks of expanded Family and Medical Leave Act (FMLA) leave for child care in addition to the regular 12 weeks of FMLA leave?**

No. The FFCRA added another eligible reason to take leave under the FMLA, namely for child care needs due to the national emergency related to COVID-19. Each eligible employee still has only 12 total weeks of FMLA leave to use in the 12-month rolling period. Further, the ability to take FMLA leave for child care reasons currently expires on December 31, 2020.

- 6) If an employee has already taken their 12 weeks of FMLA in the rolling calendar year, will they be eligible for the expanded FMLA in addition to that?**

No. Employees that have already exhausted their FMLA for the year will not be eligible for the expanded FMLA, however they will still be eligible for up to 80 hours of Emergency Paid Sick Leave.

- 7) If an employee takes FMLA leave for his or her own serious health condition related to COVID-19, is the employee eligible for this new category of FMLA leave?**

No. The new paid FMLA leave entitlement is for one reason only – to care for a child whose school or place of care is closed or whose caregiver is unavailable due to COVID-19 related issues. Such an employee may, however, be eligible for up to 10 days of emergency paid sick leave if the employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

8) Can an employee take 80 hours of emergency paid sick leave for self-quarantine and then another amount of emergency paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?

No. Employees may take up to two weeks, or 10 days (80 hours for a full-time employee, or for a part-time employee, the average number of hours typically worked over a two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which an employee is paid emergency sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

9) If an employee is home with his/her child because his or her school or place of care is closed, does the employee get paid sick leave, expanded family and medical leave, or both? How do they interact?

Employees that must stay home with their children, who are unable to telework, may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave for employees to care for their child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. This period covers the first ten workdays of expanded family and medical leave, which are otherwise unpaid under the Emergency and Family Medical Leave Expansion Act. After the first ten workdays, employees will receive two-thirds of their regular rate of pay for up to the next ten weeks.

10) Does the Emergency Paid Sick Leave run concurrently with the Expanded FMLA?

Yes.

11) Is all leave under the FMLA now paid leave?

No. The only type of family and medical leave that is paid is expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act when such leave exceeds ten days. This includes only leave taken because the employee must care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

12) Are the paid sick leave and expanded family and medical leave requirements retroactive?

No.

13) The sixth allowable reason for emergency paid sick leave is vague. What does it mean?

The sixth reason states, "The employee is experiencing any other substantially similar condition specified by the secretary of health and human services in consultation with the secretary of the treasury and the secretary of labor." In general, this means that some COVID-19 related condition in the future, as determined and announced by the secretary of health and human services, will enable an employee to take paid leave. Because such a condition has not yet been identified, leave approvals for this reason will not be granted.

14) If an employee was out on leave without pay (LWOP) prior to the Town of Christiansburg going to telework and limiting operations, is the employee eligible for the Emergency Paid Sick Leave?

No. The Families First Coronavirus Response Act is not retroactive. If the employee was out on LWOP prior to April 1, 2020, they are not eligible for this benefit.