

State of Hawai'i
Department of Human Resources Development
Emergency Paid Sick Leave (EPSL)

Families First Coronavirus Response Act of 2020 (FFCRA)

The Families First Coronavirus Response Act requires the State to provide eligible employees: (1) public health emergency leave (PHEL) pursuant to the Emergency Family and Medical Leave Expansion Act (EFMLEA) and/or (2) emergency paid sick leave (EPSL) pursuant to the Emergency Paid Sick Leave Act (EPSLA). The State has issued this policy in a good faith effort to comply with this law and provide eligible employees with any mandated leave.

This policy is effective April 1, 2020 and will remain in effect until December 31, 2020.

APPLICABILITY

All State employees (except emergency responders) are eligible for this leave immediately upon hire.

Employers may exclude emergency responder employees (e.g., law enforcement officers, correctional institution personnel, fire fighters, physicians, nurses, child welfare workers, etc.). In addition, the Governor may determine the emergency responders necessary for the State's response to COVID-19.

DEFINITIONS

"Son or Daughter" means a biological, adopted or foster child, stepchild, legal ward or a child whom the employee is standing in loco parentis.

REQUIREMENTS

- I. Emergency Paid Sick Leave (EPSL) shall be provided to employees who are unable to work (or telework) for the following reasons:
 - A. The employee is subject to a Federal, State or local quarantine or isolation order related to COVID-19.
 - B. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.

- C. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
- D. The employee is caring for an individual who is subject to an order as described in I.A. or has been advised to self-quarantine as described in I.B.
- E. The employee is caring for a son or daughter whose school or place of care has been closed, or whose child care provider is unavailable, due to COVID-19 precautions.
- F. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

II. Prohibited Acts

- A. The department may not require an employee to use other paid leave provided by the State before the employee uses EPSL.
- B. The department may not require, as a condition of providing EPSL, that the employee search for or find a replacement employee to cover the hours during which the employee is using EPSL.
- C. The department shall not discharge, discipline, or in any other manner discriminate against any employee who:
 - 1. Takes leave in accordance with the EPSLA; and
 - 2. Has filed any complaint or instituted or caused to be instituted any proceeding under or related to the EPSLA (including a proceeding that seeks enforcement of the EPSLA), or has testified or is about to testify in any such proceeding.

III. Leave Entitlement

- A. Full-time employees will be entitled to 80 hours of Emergency Paid Sick Leave.

- B. Part-time employees will be entitled to a number of hours equal to the number of hours that such employee works on average, over a 2-week period.
- C. EPSL shall not carry over to the next calendar year (i.e., 2021).
- D. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.
- E. The employee must provide the appointing authority or designee with notice of the need for EPSL as soon as practicable. After the first workday (or portion thereof) an employee received EPSL, employees must follow reasonable notice procedures in order to continue receiving EPSL.

IV. Payment

A. For EPSL used for reasons I.A., I.B. and I.C.:

1. Compensation will be at their regular rate of pay.
2. In no event shall such paid leave exceed \$511 per day and \$5,110 in the aggregate.
3. An employee may elect to use accumulated vacation, sick leave or compensatory time to cover the remaining amount necessary to ensure 100% pay if the employee hits the \$511 per day cap.

B. For EPSL used for reasons I.D., I.E. and I.F.:

1. Compensation will be two-thirds (2/3) of the employee's regular rate of pay.
2. In no event shall such paid leave exceed \$200 per day and \$2,000 in the aggregate.
3. An employee may elect to use accumulated vacation, sick leave or compensatory time to cover the remaining amount necessary to ensure 100% pay if the employee hits the \$200 per day cap.

PROCEDURES

I. Employee

- A. Completes Emergency Paid Sick Leave Request form.
- B. Submits documentation of closure of school or place of care, or unavailability of child care provider as applicable such as a notice that has been posted on a school or day care website, notice published in a newspaper, or an email from an employee or official of the school, place of care or child care.
Documentation is not required for the closure of Department of Education public schools.
- C. The employee is required to provide a physician's certificate that covers the period the employee was on sick leave in accordance with applicable CBA provisions or EO.
- D. Completes Application for Leave of Absence (G-1 request form).
- E. Submits forms to appointing authority or designee.

II. Supervisor

- A. Reviews Emergency Paid Sick Leave Request form.
- B. Ensures compliance with requirements.
- C. Signs and dates approved Emergency Paid Sick Leave Request form.

ENCLOSURE

Emergency Paid Sick Leave Request

