

Lisbon School District

15 Newent Road
Lisbon, CT 06351

Personnel -- Certified/Non-Certified

Personal Leaves

Family and Medical Leave Act

Paid Sick Leave/Emergency Family and Medical Leave Act: COVID-19 Related

The federal **Families First Coronavirus Response Act (FFCRA or Act)** includes the “Emergency Family and Medical Leave Expansion Act (EFML).” It requires certain employers, including school districts, to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19.

This is a new form of unpaid and paid FMLA leave for employees who are unable to work due to the need to care for a minor child based on a declared COVID-19 emergency resulting in closure of schools and unavailability of child care and the “Emergency Paid Sick Leave Act” (which requires paid COVID-19 related sick leave for the reasons and subject to the limitations described below).

These leave entitlements “sunset” as the end of 2020. This “short-term” policy should be used as a working reference or protocol subject to possible updating or modification by the U.S. Department of Labor. Employees may be eligible for both types of the referenced leaves, but only for a total of twelve weeks of paid leave.

Eligibility: Additional Sick Leave

All District employees are eligible for two weeks of paid sick time for specified reasons related to COVID-19, listed in this policy. This benefit is above and beyond that which is already provided to employees. Part-time or full-time employees employed for at least 30 calendar days are eligible for up to an additional 10 weeks of paid family leave to care for a child under certain circumstances related to COVID-19.

Reasons EFML May Be Taken

Eligible employees may take up to twelve (12) weeks of FMLA leave if the employee is unable to work (or telework) due to a need for leave to care for the son or daughter of the employee if son or daughter’s school or place of care has been closed, or a child care provider of such son or daughter is unavailable, due to a COVID-19 related public health emergency declared by a federal, state or local authority.

Note: This adds an additional basis for the use of family medical leave to reasons already in policy (4152.6/4252.6) but does not add an additional twelve (12) weeks of leave to the “usual” leave entitlement. Employees must meet the eligibility standards stated in the referenced policy in order to take FMLA leave other than EFML. In addition, employees are only entitled to up to twelve (12) weeks of EFML even if the need for such leave “spans” two (2) applicable one (1)-year FMLA leave periods. For example, if the applicable one (1)-year FMLA leave period is 7/1 - 6/30 under District policy and an employee who has not used FMLA leave uses five (5) weeks of EFML before 7/1/20, he or she may only be eligible to use 7 more weeks of EFML before 12/31/20.

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Payment Required During EFML

The first ten (10) days (two [2] weeks) of EFML are unpaid, but the employee must substitute accrued personal leave, vacation leave or sick leave under Board policy for such period of unpaid leave or the employee may elect to use Emergency Paid Sick Leave ("EPSL") (described below) for such period. The District cannot require substitution of EPSL. Leave taken after the first ten (10) days (two [2] weeks) of EFML shall be paid at two-thirds (2/3) of the employee's regular rate of pay (29 C.F.R. §826.25) based on the number of hours the employee would be normally scheduled to work, but in no event shall such pay exceed \$200 per day and \$10,000 in the aggregate (\$12,000 in the event the employee uses Emergency Paid Sick Leave for the first ten [10] days of such leave). In the case of employees with varying schedules where the number of hours an employee would have worked cannot be calculated with reasonable certainty and subject to the just stated daily and aggregate limits, the District shall calculate the subject hours as provided in item "5" of the DOL guidance and covered in Section 110 (b)(2)(C) of the Emergency Family and Medical Leave Expansion Act (See also 29 C.F.R. §§826.24(2) and (3)).

Notice of Requested Leave

The employee shall provide such notice to the District as is practicable in any case where the need to take EFML is foreseeable.

Sunset

The requirement to provide the leave described in this policy expires after December 31, 2020.

Emergency Paid Sick Leave

Eligibility: Federal law does not require any minimum period of service for district employees to be eligible.

Qualifying Reasons for Leave: 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);

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5. is caring for a child whose school or place of care is closed (or a child care 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.

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or a child care provider is unavailable) for reasons related to COVID-19.

Notice: Where leave is foreseeable, an employee should provide notice of leave to the District as is practicable. After the first workday of paid sick time, the District may/shall require employees to follow reasonable notice procedures in order to continue receiving paid sick time.

Duration of Leave:

For reasons (1) -(4) and (6): A full-time employee is eligible for 80 hours of leave, and a part time employee is eligible for the number of hours of leave that the employee works on average over a two-week period.

For reason (5): A full-time employee is eligible for up to 12 weeks of EFML leave (two weeks of unpaid leave followed by up to 10 weeks of paid expanded family & medical leave) at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

Paid Leave

Full-time employees when taking leave for reasons 1, 2, or 3 (based on personal COVID-19 related issues) are to receive up to two weeks of paid leave at their applicable rate of pay (29 C.F.R., §826.25), subject to a daily limit of \$511 and a \$5,110 aggregate limit. Full-time employees taking leave when caring for others (as stated in reasons 4 and 6, above) are to receive up to two weeks of paid leave at two-thirds (2/3) of their regular rate, subject to a daily limit of \$200 and a \$2,000 aggregate limit.

The total number of hours for which employees may receive this paid sick leave, reasons 1, 2, 3, 4, or 6) is capped at eighty (80) hours.

Employees taking leave for reason 5 are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate (over a 12-week

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period). (An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for the first two weeks of partial paid leave under this section.)

Part-time employees are to be paid based on the number of hours that the employee works, on average, over a two (2)-week period, subject to the same daily and aggregate “caps,” including the lower daily limits and “2/3” criteria described above if leave is taken reasons 4, 5, or 6.

In the case of employees with varying schedules where the number of hours an employee would have worked cannot be calculated with reasonable certainty and subject to the above stated daily and aggregate limits, employers should calculate the subject hours as provided in item “5” of the DOL guidance. and covered in Section 5110 (5)(C) of the Emergency Paid Sick Leave Act. See also 29 CFR § 826.21(b).

No Substitution

The District may not require the employee to use other paid leave provided by the District before the employee uses Emergency Paid Sick Leave.

Note: Federal law provides that the Emergency Federal Sick Leave Act is not to be construed to in any way diminish employee rights and benefits provided by law, applicable collective bargaining agreements, or existing District policy.

No Carryover

Any unused Emergency Paid Sick Leave does not carryover from one year to the next. Employees are not entitled to reimbursement for unused leave upon termination, resignation, retirement, or other separation from employment.

Notice

After the first workday on which an employee uses Emergency Paid Sick Leave, the Superintendent/designee may/shall require the employee to provide reasonable notice or status updates in order to continue receiving such paid sick time.

Sunset

The requirement to provide this leave expires after December 31, 2020.

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(cf. 4118.14 - Disabilities)

(cf. 4151.2 - Family Illness)

(cf. 4152.3 - Maternity; Adoptive; Child Care)

Legal Reference:

P.L. 103-3 and 29 CFR Part 825 - The Family and Medical Leave Act of 1993, as amended by H.R. 4986, the National Defense Authorization Act for Fiscal Year 2008, Section 585. 29 U.S.C. §2601 et seq. and the National Defense Authorization Act for Fiscal Year 2010, Public Law 111-84, section 565, Title V.

Final Rule - published in Federal Register, Vol. 60, Nov. 4, Friday, January 6, 1995, as amended on February 3, 1995, March 30, 1995, and on November 17, 2008. Rules and Regulations (29 CFR Part 825).

Final Rule – published in Federal Register, Vol. 78, Wed. February 6, 2013 and published in Federal Register, Vol. 80, No. 37, Wednesday, February 25, 2015

Families First Coronavirus Response Act

The Emergency Family and Medical Expansion Act

Connecticut General Statutes

46b-3800 Applicability of statutes to civil unions and parties to a civil union.

PA 12-43 An Act Concerning Family and Medical Leave Benefits for Certain Municipal Employees

Policy Adopted: 09/21/20 - Lisbon Board of Education