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## Employee Paid Leave Rights During COVID-19 (“Coronavirus”) Pandemic

This memorandum summarizes leave rights available to Mill Valley School District (MVSD) employees during the COVID-19 (“Coronavirus”) Pandemic.

### Leave Entitlement

During the COVID-19 pandemic, employees have access to the same leaves they would typically [sick leave, personal necessity (up to 10 days of available sick leave balance), vacation (as applicable), compensatory time (as applicable)], in addition to emergency leave benefits granted under the Families First Coronavirus Response Act (FFCRA- HR 6201). Benefits made available through FFCRA became effective April 1, 2020.

Leaves granted under the FFCRA include:

- **Emergency Paid Sick Leave (“EPSL”)** – up to 80 hours of paid sick leave (prorated for part-time; total of two workweeks) when an employee is unable to work on-site or remotely:

**FULL PAY maximum \$511/day and \$5,110 total:**

1. The employee is subject to a quarantine or isolation order<sup>i</sup> related to COVID-19 by federal, state, or local government; or
2. The employee has been advised to self-quarantine related to COVID-19 by a healthcare provider; or
3. The employee is experiencing COVID-19 symptoms and seeking medical diagnosis; or

**2/3 PAY maximum \$200/day and \$2,000 total:**

4. The employee is caring for an individual who is subject to (1) or (2); or
5. The employee is caring for a son or daughter whose school or place of care is closed or whose caregiver is unavailable due to COVID-19 precautions; or
6. The employee is experiencing a “substantially similar condition” as specified by the Department of Health and Human Services (DHHS).

- **Emergency Family Medical Leave Expansion Act (“Emergency FMLEA”)**

Employees who have been employed for at least 30 calendar days and are unable to work on-site or remotely due to childcare issues as a result of school or place of care closure (or unavailability of childcare provider) [i.e. qualifying reason number 5 above] may be entitled to up to 12 workweeks of leave for childcare purposes. The first two weeks of Emergency FMLEA leave is unpaid, unless employees elect to utilize accrued paid leave, including EPSL during this time. The remaining 10 workweeks of leave are paid at 2/3 their regular rate of pay for up to \$200 daily and \$10,000 total (\$12,000 total for the 12 workweeks).

*Important note: Emergency Paid Sick Leave may not exceed a total of two (2) weeks. When combined with Emergency FMLEA, leaves may not exceed twelve (12) weeks total. Employees are able to use other available leaves to remain in paid status and are encouraged to work with Personnel to understand their total leave rights.*

## FFCRA LEAVE CHART

	(1)	(2)	(3)	(4)	(5)	(6)
<b>Color Key:</b> <span style="background-color: #4F81BD; color: white; padding: 2px;">Available for use</span> <span style="background-color: #D9E1F2; padding: 2px;">Allowed by MVSD</span> <span style="background-color: #00AEEF; color: white; padding: 2px;">Not Applicable</span>	Employee is subject to a quarantine or isolation order related to COVID-19 by federal, state, or local government <sup>ii</sup>	Employee has been advised to self-quarantine related to COVID-19 by a healthcare provider <sup>ii</sup>	Employee is experiencing COVID-19 symptoms and seeking medical diagnosis <sup>ii</sup>	Employee is caring for an individual who is subject to (1) or (2) <sup>ii</sup>	Employee is caring for a child whose school or place of care is closed or whose caregiver is unavailable due to COVID-19 precautions	Employee is experiencing a “substantially similar condition” as specified by DHHS <sup>ii</sup>
<b>(EPSL) Emergency Paid Sick Leave (HR6201)</b>	80 hours of employer-paid sick leave <sup>iii</sup> for full-time employees; average hours per two-week period for part-time employees	80 hours of employer-paid sick leave <sup>iii</sup> for full-time employees; average hours per two-week period for part-time employees	80 hours of employer-paid sick leave <sup>iii</sup> for full-time employees; average hours per two-week period for part-time employees	80 hours of employer-paid sick leave <sup>iv</sup> for full-time employees; average hours per two-week period for part-time employees	80 hours of employer-paid sick leave <sup>iv</sup> for full-time employees; average hours per two-week period for part-time employees	80 hours of employer-paid sick leave <sup>iv</sup> for full-time employees; average hours per two-week period for part-time employees
<b>Sick Leave</b>				Allowed with Approved Leave request	Allowed with Approved Leave request	Allowed with Approved Leave request
<b>Differential Leave</b>						
<b>Personal Necessity (up to 7 days of available Sick Leave)</b>						
<b>Vacation (as applicable)</b>						
<b>Emergency FMLEA (HR6201)-Eligibility Requirements Apply</b>					Up to 12 weeks paid leave <sup>v</sup> for employees working at least 30 days	
<b>Industrial Accident/Illness<sup>vi</sup></b>	Available if employee tests positive for COVID-19 and establishes it was contracted while at work	Available if employee tests positive for COVID-19 and establishes it was contracted while at work	Available if employee tests positive for COVID-19 and establishes it was contracted while at work			

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- <sup>i</sup> Per order of the Marin County Public Health Officer to shelter at home
  - <sup>ii</sup> Note from Health Care Provider Required
  - <sup>iii</sup> Up to 2 weeks leave at full pay, up to a maximum of \$511 per day and \$5,110 total
  - <sup>iv</sup> Up to 2 weeks leave at 2/3 pay, up to a maximum of \$200 per day and \$2,000 total. May be used to provide pay during the first 2 weeks of unpaid Emergency FMLEA if caring for others
  - <sup>v</sup> Up to 12 weeks of leave, first 10 workdays days (two weeks) are unpaid (able to use other available paid leaves to remain in paid status, including EPSL), remaining 10 weeks at 2/3 pay up to a maximum of \$200 per day and \$10,000 total (\$12,000 total for the entire 12 weeks)
  - <sup>vi</sup> Physician's note required from Workers' Compensation doctor

# Families First Coronavirus Response Act (FFRCA) FAQs:

## What is the Families First Coronavirus Response Act (FFCRA or Act)?

The FFCRA requires certain employers to provide employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (DOL) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements.

## Is the Mill Valley School District a Covered Employer?

Yes. The paid sick leave and expanded family and medical leave provisions of the FFCRA apply to certain public employers, including the Mill Valley School District.

## What is the duration of the FFCRA provisions?

These provisions will apply from April 1, 2020 through December 31, 2020.

## Am I eligible for this benefit?

All MVSD employees are eligible for two weeks of paid sick time for specified reasons related to COVID-19. MVSD employees employed for at least 30 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 outlined in #5 below.

## What Reasons Qualify for Leave?

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (or unable to work remotely) 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);
5. is caring for a child whose school or place of care is closed when they would have normally been open (or child care provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially-similar condition specified by the Department of Health and Human Services (DHSS).

## What is the Duration of Leave Available?

- **For reasons (1)-(4) and (6):** A full-time employee is eligible for 80 hours (two weeks) 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. (benefits are calculated as shown below)
- **For reason (5):** A full-time employee is eligible for up to 12 weeks of leave (two weeks of paid sick 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. (benefits are calculated as shown below)

## How is Pay Calculated?

- **For leave reasons (1), (2), or (3):** employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate (over a 2-week period).
- **For leave reasons (4) or (6):** employees taking leave are entitled to pay at 2/3 their regular rate, up to \$200 per day and \$2,000 in the aggregate (over a 2-week period).
- **For leave reason (5):** employees taking leave are entitled to pay at 2/3 their regular rate up to \$200 per day and \$12,000 in the aggregate (over a 12-week period).

An employee may elect to cover the difference between the cap and their full pay by using accrued sick leave, personal necessity leave (PN), vacation leave (as applicable), or compensatory time (as applicable).

Part-time employees are entitled to pro-rated leave based on the average hours they would normally have worked in a two-week period.

## How do I access this leave?

If you are interested in accessing this leave, submit a doctor's note and leave request to Human resources via email ([mpommier@mvschools.org](mailto:mpommier@mvschools.org)) stating "COVID19- Self" or "COVID19- Care." If you are requesting Emergency FMLEA leave to care for a child, please indicate "Emergency FMLEA leave" in leave request letter and contact Human Resources to schedule a FMLEA discussion. If you have further questions, contact Michelle Pommier.

## How is FMLA leave impacted?

While the law expands eligibility and adds an additional FMLA qualifying reason for leave (school closures), it does not increase an employee's total 12-week entitlement to FMLA.

## If I take paid sick leave under the Emergency Paid Sick Leave Act, does that count against other types of paid sick leave to which I am entitled under Education Code or my Collectively Bargained Agreement?

No. Paid sick leave under the Emergency Paid Sick Leave Act is in addition to other leave provided under Federal or State law; an applicable collective bargaining agreement; or MVSD policy.

Additional FAQs are available on the Department of Labor Website:  
<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

# 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;
- ⅔ 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 ⅓ 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:

- |   |   |
|---|---|
| <ol style="list-style-type: none"><li>1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;</li><li>2. has been advised by a health care provider to self-quarantine related to COVID-19;</li><li>3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;</li><li>4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);</li></ol> | <ol style="list-style-type: none"><li>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</li><li>6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.</li></ol> |
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### ▶ 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)



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