



## Paid FMLA Emergency Federal Leave Expansion Act (EFMLEA)

Effective 4/1/20, Sunset 12/31/20

### Which employers must comply:

	Private Sector	Public Agency
<50 employees	Some employers may be exempt*	Required compliance for all public agencies
50-499 employees	Required compliance	
500+ employees	Not required – can implement some or all of provisions	

\*An employer with <50 employees must be determined to be exempt from EFMLEA. They may be eligible for exemption if:

- Paid leave would cause business expenses and financial obligations to exceed revenue
- The absence of FFCRA-requesting workers would entail a “substantial risk” to the company’s well-being or ability to operate due to “specialized skills, knowledge or the business or responsibilities”
- There are not enough qualified workers available to do the work performed by FFCRA-requesting employees and work is necessary for business to run at “minimal capacity”

**NOTE: Health Care Providers and/or Emergency Responders employers may exclude employees from eligibility to take leave for caring for a child where the school or day care provider is closed due to COVID-19.**

### Things to Know:

All non-exempt employers or agencies must pay employees unable to work or telework due to caring for child (under age of 18) where school/day care closed due to COVID-19. NOTE: Special substantiation required for children over 14. This includes 12 weeks of job-protected level. The first 10 days are unpaid, the next 10 weeks are paid at 2/3 rate of pay up to a maximum.

<b>Eligible employees</b>	Employees that have been employed for at least 30 calendar days.
<b>Leave for self</b>	No
<b>Leave for family care</b>	Yes, for childcare only
<b>Leave period covered</b>	12 weeks (not an extension of traditional FMLA)
<b>Leave paid</b>	First two weeks unpaid/10 weeks paid
<b>Rate of pay</b>	2/3 of regular rate of pay
<b>Maximum pay</b>	\$200/day up to \$10,000 max
<b>Job protection</b>	Yes. EXCEPTION Employers with less than 25 employees.
<b>Discrimination forbidden</b>	Yes
<b>Notification required</b>	Yes
<b>Enforcement by DOL</b>	Yes. Temporary delay first 30 days after effective date.
<b>Tax credits available</b>	100% of payroll tax credit for required paid sick leave wages, plus certain healthcare expenses of the employer.  Private sector employers may obtain a tax credit for wage replacement.

As of the issuance of the Temporary Rule by the Department of Labor, the exemption for small employers is to be a case by case determination. Further, there is no means of submission of an exemption request or documentation to support a claim of exemption as of the issuance of the Temporary Rule.