

HR 101: FFCRA

Paid Leave Under the Families First Coronavirus Response Act

**Melbourne Regional Chamber of Commerce
Small Business Council**

April 7, 2020



Theme:

Managing your workforce during COVID-19: Best Practices and Legal Guidelines for the Small Business Owner

Agenda:

FFCRA Overview

Managing a Remote Workforce

Best Practices

Advice for leading your workforce

About Alan Bernstein

- Alan Bernstein – Owner and Chief HR Consultant of HR Office Savers, Inc.
- More than 25 years front line and executive HR
- Senior Certified HR Professional – SHRM
- Melbourne Chamber Ambassador
- Melbourne Chamber SBC Chair



Deep Industry Experience

FFCRA

Families First Coronavirus Response Act



On March 18, 2020, the President signed into law the Families First Coronavirus Response Act (FFCRA), requiring certain employers to provide employees with expanded family and medical leave for specified reasons related to COVID-19.

These provisions are effective April 1, 2020 and apply to leave taken between April 1, 2020 and December 31, 2020.

Protects families AND the workplace

Scope of FFCRA

- Private employers with fewer than 500 employees and certain public employers.
- April 1 – December 31, 2020
- Small employers with fewer than 50 employees may qualify for an exemption if the leave payments would jeopardize the viability of their business as a going concern.
- Covered private employers qualify for reimbursement through refundable tax credits as administered by the Department of the Treasury
- Each covered employer must post in a conspicuous place on its premises a notice of FFCRA requirements.

<https://www.dol.gov/agencies/whd/ffcra>

Paid Sick Leave 1

Two weeks (up to 80 hours) of paid sick time at the employee's regular rate of pay where the employee is **unable to work or telework** because the employee is:

1. **Quarantined** (pursuant to Federal, State, or local government order or advice of a health care provider);
2. **Advised to self-quarantine** by a health care provider;
3. **Experiencing COVID-19 symptoms and** seeking a medical diagnosis.

Full Pay for Two Weeks (up to \$511 per day)

Paid Sick Leave 2

Two weeks (up to 80 hours) of paid sick time at two-thirds the employee's regular rate of pay because the employee is **unable to work or telework** because:

1. Bona fide **need to care for an individual** subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider):
2. To **care for a child** (under 18 years of age) whose school or child-care provider is closed or unavailable for reasons related to COVID-19;
3. Experiencing a substantially similar condition as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of the Treasury and Labor

2/3 pay for 2 weeks (up to \$200 per day)

Extended FMLA

Up to 12 weeks of family leave where an employee is unable to work due to a bona fide need for leave to **care for a child** whose school or child-care provider is closed or unavailable for reasons related to COVID-19.

- The initial 10 days may be unpaid
- An employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for unpaid leave.

If School or Daycare is Closed

Covered employers qualify for dollar-for-dollar reimbursement through tax credits for all qualifying wages paid under the FFCRA. Applicable tax credits also extend to amounts paid or incurred to maintain health insurance coverage.

Documentation required:

1. The employee's name;
2. The date or dates for which leave is requested;
3. A statement of the COVID-19 related reason the employee is requesting leave and written support for such reason; and
4. A statement that the employee is unable to work, including by means of telework, for such reason.

<https://www.irs.gov/coronavirus>

General Rules for Approving Leave

- Must have appropriate documentation to submit to IRS for Tax Credits
- You are not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.
- Employers have discretion on what proof to request, but must be reasonable

Must keep for 4 years

Recommended Documentation – Sick Leave

1. Employee's name;
2. Date(s) for which leave is requested;
3. COVID-19 qualifying reason for leave;
4. Signed statement representing that the employee is unable to work or telework because of the COVID-19 qualifying reason.
5. Names and dates and locations of medical appointment or doctors (if applicable)

Backup documentation important

Recommended Documentation – EFMLA

1. Name of the child being care for;
2. Name of the school, place of care, or childcare provider that closed or became unavailable due to COVID-19 reasons;
3. Signed statement representing that no other suitable person is available to care for the child during the period of requested leave.

Burden of proof on the employee

Guiding Principle

The Department encourages employers and employees to collaborate to reach the best solution for maintaining the business and ensuring employee safety.

Be Nice

Managing a Remote Workforce



Telework Basics

- Create a **policy** and written **agreement** signed by the manager and employee
- Agree in advance on work schedule
- Create a communication plan
- Provide telework employees with the tools necessary to do their jobs
- Communicate regularly and expect the same in return
- Telework is still work! You can and should still manage your employees' performance
- Resist the urge to micromanage!

Trust but Verify

Equipment

Many staff members already possess fundamental technology—a computer, a phone, and internet access—at home. Loan out laptops from the office as needed, and don't forget to include the charger cord.

Must have tools to perform the job

Telework Policy Basics

- Employee expected to have a space reasonable to perform work as agreed.
- Equipment supplied by the organization is to be used for business purposes only.
- Telecommuting employees will be expected to ensure the protection of proprietary company and customer information accessible from their home office.
- Company may require employees to return to regular, in-office work at any time.

Should be consistent with current policies

Telework Agreement Basics

- The employee will remain accessible and productive during scheduled work hours.
- Nonexempt employees will record all hours worked and meal periods taken in accordance with regular timekeeping practices.
- The employee will communicate regularly with his or her supervisor and co-workers.
- The employee will comply with all Company rules, policies, practices and instructions that would apply if the employee were working at the employer's work location.

May be customized to employee work demands

Best Practices



Business Continues

Aside from the reasons outlined by law, if your business is still open you can have people work except if they fear for their safety. In that case, encourage them to stay home unpaid until comfortable coming to work. If you can create a work-from-home situation, that is best.

ADA, FLSA, OSHA and Shelter in Place rules apply

Positive Employee Relations

Act with compassion and grace. If someone needs time off that is not covered by the new law, and your business can support it, let them have the time off. If they are out of PTO, let them take time off with no pay and no fear of losing their job. Just document the day and reason. You can and should still ask for communication.

Think Big Picture

Communication

Send a safety statement. Let your employees know you care and if they are sick or afraid of getting sick, they should stay home. Same goes for taking care of loved ones. If they have a sick relative or need to take care of a child because school is out, they should do that.

FFCRA may apply!

Going Forward

- Every employer should have an employee handbook that includes policies for emergency preparedness related to planned and unplanned events
- All employers are required to keep their workplace safe. “Unforeseen circumstance” is not a good excuse!
- What can you do to create a safe work environment?
- What can you do to protect yourself, your workers, and your business?

Need to plan for these types of issues

Resources

U.S. Department of Labor – Wage and Hour Division

COVID-19 and the American Workplace

<https://www.dol.gov/agencies/whd/pandemic>

Centers for Disease Control and Prevention

Resources for Businesses and Employers

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>

Internal Revenue Service

COVID-19-Related Tax Credits for Required Paid Leave Provided by Small and Midsize Businesses FAQs

<https://www.irs.gov/newsroom/covid-19-related-tax-credits-for-required-paid-leave-provided-by-small-and-midsize-businesses-faqs>

Melbourne Regional Chamber - COVID-19 Resource Center

<https://www.melbourneregionalchamber.com/covid-19-resource-center.html>

Volk Law Offices, P.A. - <https://volklawoffices.com/coronavirus/> - (321) 726-8338

HR Office Savers, Inc. - www.HROfficeSavers.com – (321) 831-5995

Volk Law Offices, P.A.

What Can Volk Law Offices Do For You?



- Employment Law
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HR Office Savers overview

Mission Statement

Promote positive and sustained employment for both workers and employers through hands-on support and education.

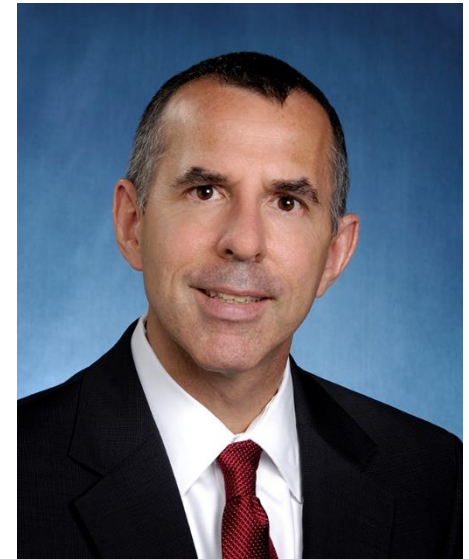
How we can help:

Temporary Leave Policy

Interpret and support time off requests

Terminations or Leaves of Absence

General Employee Relations issues



Human Resources Consulting and Job Search Support
www.HROfficeSavers.com • (321) 831-5995

Thank You!

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