

The Department of Labor (DOL) has issued some additional guidance on the Families First Coronavirus Response Act (FFCRA), which requires that certain employers provide Emergency Paid Sick Leave and Emergency Family Medical Leave for circumstances related to the COVID-19 pandemic. So, I am providing an update, along with some answers to Frequently Asked Questions (FAQS):

- Attached is an updated Fast Facts Sheets. I corrected one error. Employers are only required to pay employees up to 2/3 of their wages (not their full wages) for Emergency Paid Sick Leave for reasons (4), (5), or (6). I made that correction in red on the updated Fast Facts Sheet.
- The DOL has clarified that the effective date of the FFCRA is **April 1**. (I had previously said it was April 2, which is what everyone had calculated it to be, but it appears the DOL is starting it a day earlier to correspond with the federal fiscal year calendar.)
- Late last week, the DOL issued some guidance in the form of Questions and Answers, which can be found at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>. It is a rather lengthy document, so I have tried to summarize the most relevant and broadly-applicable information for your convenience in the attached FAQs.
- You may hear that there is a 30-day moratorium on DOL enforcement of the FFCRA. That is true there are a few caveats to know about it: (1) the 30-day period runs from March 18 through April 17; (2) the enforcement moratorium will only apply if the employer acted reasonably and in good faith; and (3) the moratorium will not prevent employees from bringing private actions based on violations of the FFCRA during the moratorium period. The bottom line is that employers should not rely on the moratorium and should still strive to comply with the FFCRA by its effective date April 1. Here is a link to the DOL Field Bulletin regarding the enforcement moratorium: <https://www.dol.gov/agencies/whd/field-assistance-bulletins/2020-1>.
- The FFCRA has a posting requirement. Employers are required to post this document in a conspicuous location: https://www.dol.gov/sites/dolgov/files/WHd/posters/FFCRA_Poster_WH1422_Non-Federal.pdf. The DOL has also provided this guidance regarding the posting requirement: <https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions>. One important thing to note is that, if you have employees who are already on leave or who are teleworking, you should send this notice to those employees by email or direct mail or you should post the notice on an external or internal website that can be accessed by those employees.
- Finally, the IRS has provided some additional guidance regarding the tax credits available for Emergency Paid Sick Leave and Emergency Family Medical Leave, which can be found here: <https://www.irs.gov/newsroom/treasury-irs-and-labor-announce-plan-to-implement-coronavirus-related-paid-leave-for-workers-and-tax-credits-for-small-and-midsize-businesses-to-swiftly-recover-the-cost-of-providing-coronavirus>.

If you have any additional questions regarding the applicability of the FFCRA or anything else that I can help you with in navigating through the various employment issues associated with the pandemic, you can email me or call me at (505) 938-7779.