

**SUMMARY OF THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT
("FFCRA")**

The FFCRA was signed into law on March 19, 2020 and went into effect on **April 1, 2020**. Two of its key provisions are applicable to 'public agencies' including governmental employers like the UA System Office (UAS).

**EMERGENCY FAMILY AND
MEDICAL LEAVE EXPANSION ACT
("EFML")**

**EMERGENCY PAID SICK LEAVE
ACT ("EPSL")**

Summary	Amends FMLA by adding a 6 th reason for leave ' <i>Qualifying childcare need related to public health emergency</i> ' to permit employees to take up to 12 weeks of leave.	Requires UAS to provide employees with emergency paid sick leave if employee is unable to <u>work</u> or <u>telework</u> due to any of the following reasons:
Qualifying Reasons	Employee is unable to <u>work</u> or <u>telework</u> due to a need for leave to care for a son or daughter whose school or place of care has been closed, or the childcare provider of such son or daughter is unavailable due to COVID-19 related reasons. Employee is also eligible for EPSL.	<ol style="list-style-type: none"> 1) Employee is subject to Federal, State, or local quarantine or isolation order, 2) Employee has been advised by health care provider to self-quarantine, 3) Employee is experiencing COVID-19 symptoms & seeking medical diagnosis, 4) Employee is caring for an individual based on reasons (1) or (2) above (e.g., quarantine or isolation), or 5) The employee is caring for a son or daughter whose school or place of care has been closed, or the childcare provider of such son or daughter is unavailable
Important Definition	<i>Son or daughter</i> is defined as biological, adopted, or foster child, stepchild, legal ward, or child of person standing in loco parentis who is either under 18 years of age or is older and "incapable of self-care due to mental or physical disability."	
Eligible Employees	All employees, FT and PT, exempt and non-exempt, who have worked for UAS for at least 30 calendar days on payroll.	All employees, FT and PT, exempt and non-exempt are eligible regardless of length of service at UAS. Available to use immediately.
Excluded Employees	An employee who is a <u>healthcare provider</u> or <u>emergency responder</u> is exempt from these new leave laws due to staffing needs, so the employee is NOT eligible for EFML or EPSL. No UAS employees are considered excluded from FFCRA.	
Amount of Leave	Up to 12 work weeks in a rolling backward 12-month period; same as standard FML. Less time if employee has used a portion of their FML entitlement. If exhausted, not eligible.	Full time employees (e.g., 40 hours per week) – 80 hours of EPSL. Part-time employees – EPSL equal to the average number of hours the employee works in a two-week period
	<p>NOTE: Based upon reason (5) above for EPSL, certain employees may receive <i>up to 14 weeks of leave</i> (12 weeks for EFML + 2 weeks for EPSL) to care for a son or daughter while school or place of care is closed. This assumes the employee is full-time and has the entire 12 work week FML entitlement remaining.</p> <p>Example: Employee may elect to use 2 weeks (80 hours) of EPSL before 12 weeks of EFML starts, during EFML to cover the 10-day unpaid period, or after 12 weeks of EFML ends.</p>	

**EMERGENCY FAMILY AND
MEDICAL LEAVE EXPANSION ACT
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**EMERGENCY PAID SICK LEAVE
ACT ("EPSL")**

Continuous or Intermittent Leave	EFML may be taken on a Continuous or Intermittent basis. Employees will be required to submit Intermittent Leave Records to the Benefits Office per pay period.	EPSL must be taken on a Continuous basis, except for Reason #5 related to childcare. Only EPSL for childcare reasons may be taken on an Intermittent basis.
Payment for Leave	<p>First 10 days unpaid, but employee may substitute accrued annual, sick, or comp time. May also choose to use EPSL hours here.</p> <p>Remaining leave (up to 10 weeks) is paid:</p> <ul style="list-style-type: none"> • <u>Two-thirds employee's regular rate of pay</u> multiplied by the number of hours employee is normally scheduled to work up to the specified limits below. • For variable schedules, UAS will average number of hours per day employee was scheduled to work during the six-months preceding first day of EFML. <p>PAY SUPPLEMENT: Employees can use accrued leave time during 10-day unpaid period, and may supplement an additional one-third of their regular rate of pay (e.g., \$200 + 1/3 pay) during remaining 10 weeks.</p>	<ul style="list-style-type: none"> • "Self-Care" Leave taken for employee's own care (reasons #1 - 3 above) is paid at 100% the employee's regular rate of pay, subject to the limits below. • "Family Care" Leave taken for care of others (reasons #4 - 5 above) is paid at <u>two-thirds employee's regular rate of pay</u> <p>PAY SUPPLEMENT: For reasons #4 - 5, employees can use accrued leave time to supplement an additional one-third of their regular rate of pay (e.g., \$200 + 1/3 pay).</p>
Daily Limit and Aggregate	\$200 per day; \$10,000 aggregate	<p>Self-Care: \$511 per day; \$5,110 aggregate</p> <p>Family Care: \$200 per day; \$2,000 aggregate</p>
How to Request	Employee should contact UAS Human Resources at 205-348-9506 to request a UAS Family and Medical Leave Request form.	Employee should contact UAS Human Resources at 205-348-9506 to request a UAS EPSL survey request form.
Processing Timeline	Standard FML processing timeline applies to both request types (e.g., 5 days for employer to notify employee of eligibility, 15 days for employee to supply required documentation, 5 days for employer to approve/deny leave request)	
Required Documentation	<ol style="list-style-type: none"> 1) Employee Statement for Qualifying Childcare Need certifying names, ages, and school or place of care for each child, AND 2) Proof of school closure or unavailability of childcare provider (e.g., notice of closure posted on a government, school, or place of care website, newspaper article with announcement of closure, or email from school official documenting closure) 	<ol style="list-style-type: none"> 1) "Self-Care" Leave (Reasons #1 - 3) and "Family Care" Leave (Reason #4) must complete Employee Statement for Isolation/Quarantine Reason containing names of government entity or healthcare provider recommending quarantine/isolation, and/or information about family member, OR 2) "Family Care" (Reason #5) for childcare must complete Employee Statement certifying names, ages, and school or place of care for each child. Same form applies to EFML request.
Expiration	December 31, 2020	<p>December 31, 2020</p> <p>EPSL ends with the first scheduled shift immediately following the termination of the need for leave for any of the reasons above. Unused EPSL does not carry over.</p>

FAMILIES FIRST CORONAVIRUS RESPONSE ACT (“FFCRA”) FAQs

The Families First Coronavirus Response Act (“FFCRA”) was signed into law on March 18, 2020 and requires The UA System Office (UAS) to provide employees with emergency paid sick leave (EPSL) and expanded family and medical leave (EFML) for specified reasons related to the ongoing COVID-19 pandemic.

1. How does the FFCRA help employees?

Congress passed the Families First Coronavirus Response Act (FFCRA) which (1) amends the Family and Medical Leave Act (“FMLA”) to provide expanded paid family leave benefits, called Expanded Family and Medical Leave (“EFML”); and (2) provides emergency paid sick leave benefits, called Emergency Paid Sick Leave (“EPSL”). See additional FAQs below for more information about the specific leaves.

2. When does the FFCRA take effect?

The FFCRA takes effect April 1, 2020 and ends December 31, 2020.

3. Are any employees of UAS not eligible for the FFCRA leaves?

No. All UAS employees are eligible for FFCRA leaves. However, employees should be aware that these new laws do contain broad exemptions for employees working as “health care providers” or “emergency responders.” Per the Department of Labor, “health care provider” includes anyone employed at a hospital, health care center, doctor’s office, health clinic, post-secondary educational institution offering health care instruction, medical school, and similar health care entities. Similarly, “emergency responder” includes anyone necessary for the provision of transport, care, healthcare, comfort and nutrition of such patients, or others needed for the response to COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical technicians, 911 operators, child welfare workers and service providers, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency, as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. These exemptions are intended to ensure health care related entities are positioned to continue to provide their services during this unprecedented time.

4. What is “regular rate of pay” for purposes of the FFCRA?

For both Emergency Paid Sick Leave (“EPSL”) and Expanded Family Medical Leave (“EFML”), the regular rate of pay used to calculate paid leave is the average of an employee’s regular rate over a period of up to six months prior to the date on which she takes leave. If she has not worked for six months, the regular rate used to calculate her paid leave is the average of her regular rate of pay for each week she has worked for her employer.

5. How will hours worked by a part-time employee be counted for FFCRA leave purposes?

A part-time employee is entitled to leave for the average number of work hours in a two-week period. Therefore, employers calculate hours of leave based on the number of hours the employee is normally scheduled to work. If the normal hours scheduled are unknown, or if the part-time employee’s schedule varies, the employer may use a six-month average to calculate the average daily hours.

6. Does the FFCRA apply to other illnesses or standard FMLA absences?

No. The expansion of FMLA through the EFML and EPSL is limited to COVID-19 related absences. The maximum of 80 hours of Emergency Paid Sick Leave apply only to the five types of absences due to COVID-19 related reasons. The longer EFML provisions apply only to school or place of care closings due to COVID-19. Illnesses for all other reasons are governed by existing UAS sick leave policies, the FMLA, or other applicable laws.

7. How do employees request Emergency Paid Sick Leave and/or Expanded Family Medical Leave?

Employees must first notify their direct supervisor regarding the need to request EPSL and/or EFML. Employees will then be directed to contact UAS Human Resources at 205-to request the appropriate leave request and other related forms. Tracking of EPSL and EFML will be done by UAS Human Resources.

8. Are the Emergency Paid Sick Leave and Expanded Family Medical Leave requirements retroactive?

No. EPSL and EFML leaves will be approved as of the date of request received by UAS Human Resources.

Emergency Family Medical Leave Act FAQs

The Act amends the Family and Medical Leave Act by adding a 6th reason for a leave of absence for employees who are unable to work or telework due to a 'qualifying childcare need related to public health emergency.'

1. What is a 'qualifying need related to a public health emergency'?

The phrase "qualifying need related to a public health emergency" for EFML means: (1) an employee is unable to work or telework due to a need for leave to care for a son or daughter under 18 whose school or place of care has been closed, or (2) the childcare provider of such son or daughter is unavailable due to an emergency declared by a Federal, State or local authority related to COVID-19. The EFML applies to a narrow range of instances – only those related to the closing of schools or day care centers as described above.

2. What is the eligibility requirement for Expanded Family Medical Leave?

An employee must be employed by UAS for 30 calendar days. Employees, both exempt and non-exempt, full-time, part-time, and temporary employees who have worked for UAS for at least 30 calendar days are eligible to receive Expanded Family Medical Leave ("EFML"). An employee is considered to have been employed for at least 30 calendar days if the employee has been on the employer's payroll for the 30 calendar days immediately prior to the day the leave would begin. For example, if an employee wanted to take leave on April 1, 2020, he would need to have been on payroll as of March 2, 2020.

3. Do the terms "son" or "daughter" have specific meaning under Expanded Family Medical Leave?

Yes. The terms "son" or "daughter" are defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and "incapable of self-care because of a mental or physical disability."

4. Are any UAS employees not eligible for Expanded Family Medical Leave?

No. All UAS employees are eligible for EFML.

5. What leave benefits does the Expanded Family Medical Leave provide?

The EFML provides eligible employees with up to 12 workweeks of leave for a qualifying childcare need related to a public health emergency. The EFML does not create a new right to an additional 12 workweeks of leave in addition to the 12 workweeks of leave to which employees are already entitled under the FMLA for other FMLA-qualifying reasons. The EFML only creates an additional qualifying reason for taking this public health emergency leave. Employees still only get 12 workweeks of FMLA leave, whatever the reason for the leave.

6. Can Expanded Family Medical Leave be taken on a Continuous or Intermittent basis?

Yes, EFML may be taken on a Continuous or Intermittent basis depending on childcare needs. For example, if the employer and employee agree, the employee could take expanded family and medical leave on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while the child is at home because the child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

Employees who request intermittent leave will be required to submit Intermittent Leave Records once per pay period. Employees should contact UAS Human Resources to request the appropriate leave tracking form.

7. If an employee has already used FMLA for other qualifying medical leave reasons this year, how many workweeks of Expanded Family Medical Leave could they be eligible for?

It depends. An employee is only entitled to a total of 12 workweeks in a 12-month period. If an employee has taken some, but not all, 12 workweeks of leave under FMLA during the current 12-month period, an employee may take the remaining portion of leave available. If an employee has already taken 12 workweeks of FMLA during the 12-month period, the employee may not take additional expanded family and medical leave. For example, an employee has already used 7 workweeks of FMLA to recover from surgery, they will only have 5 remaining workweeks of FMLA entitlement to use for EFML. See question and answer immediately above.

8. Does the Expanded Family Medical Leave require UAS to pay employees?

Yes and No. The first 10 days of Expanded Family Medical Leave is unpaid. After the first 10 work days of EFML, the remaining 10 workweeks of leave is paid by the employer as set forth below:

- The amount of daily paid leave is calculated based on two-thirds of the employee's regular rate of pay multiplied by the number of hours the employee is normally scheduled to work in a day, subject to a cap of \$200 per day and \$10,000 in the aggregate.
- If the employee's work schedule varies from week to week, the employer uses the average number of hours per day the employee was scheduled to work per day during the six-month period preceding the first day the employee takes leave under the EFML.

9. For purposes of Expanded Family Medical Leave, can an employee supplement the employee's regular rate of pay with other accrued leave?

Yes. At this time, an employee may elect to use accrued annual leave, sick leave, or personal leave to supplement the partial-paid EFML leave. An employee may also use Emergency Paid Sick Leave to cover the first 10 days unpaid EFML.

10. Do employees have to use any other accrued leave time before they can use Expanded Family Medical Leave?

No. Employees are not required to use other available paid leave first before using EFML hours.

11. Does UAS have specific notice procedures or documentation requirements for employees to request EFML?

Yes. UAS can request reasonable notice in connection with requests for foreseeable leave related to school or daycare closures. Documentation requirements include an Employee Statement and proof of notice of closure or unavailability. Employees must complete the Employee Statement for Childcare Reasons form certifying names, ages, and school or place of care for each child. The same form applies for Emergency Paid Sick Leave requests for childcare reasons. For example, the proof of notice may include a notice of closure or unavailability from a child's school, place of care, or child care provider, including a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to the employee from an official of the school, place of care, or child care provider.

Note that all existing certification requirements under the FMLA remain in effect if an employee is taking leave for one of the existing qualifying reasons under the FMLA. For example, if an employee is taking leave beyond the two workweeks of EPSL because a medical condition for COVID-19-related reasons rises to the level of a serious health condition, employees must continue to provide medical certifications under the FMLA if required by the employer.

Employees should contact UAS Human Resources to request the Employee Statement for Childcare Reasons form.

12. Is it possible for an employee to receive benefits under both EFML and EPSL if they are home with a child because the school or place of care is closed, or a childcare provider is unavailable?

Yes. Employees who satisfy the eligibility requirements of both EFML and EPSL are entitled to benefits under both laws only to care for a son or daughter while school or place of care is closed. These employees may receive some measure of paid benefits for up to 14 workweeks of leave (up to two workweeks for EPSL and 12 workweeks for EFML). Employees may elect to use two weeks (80 hours) of EPSL **before** 12 workweeks of EFML starts, **during** EFML to cover the first ten unpaid workdays of EFML, or **after** the 12 workweeks of EFML ends.

13. How can an employee apply for Expanded Family Medical Leave?

Requests for Expanded Family Medical Leave (“EFML”) are handled through the same process as all other FMLA requests. Employees should contact UAS Human Resources to request all EFML related forms.

14. How long will it take to be approved for Expanded Family Medical Leave?

UAS Human Resources will determine eligibility and respond to all requests in approximately five business days and ask employees to submit required documentation within 15 calendar days. Once documentation is received, UAS Human Resources will approve or deny the request in approximately five business days. If approved, an employee’s leave request will be retroactive back to the date the request form was submitted.

Emergency Paid Sick Leave Act FAQs

The Act requires UA to provide employees with emergency paid sick leave if employee is unable to work or telework due to a defined list of reasons related to COVID-19.

1. What is the eligibility requirement for Emergency Paid Sick Leave?

Beginning April 1, 2020, all employees, both exempt and non-exempt, full-time, part-time, and temporary employees are eligible to use EPSL immediately upon date of hire. The leave ends with the first scheduled shift immediately following the termination of the need for leave for any of the reasons set forth above.

2. Does “quarantine or isolation order related to COVID-19” have a defined meaning?

Yes. Quarantine or isolation orders include a broad range of governmental orders, including orders that advise some or all citizens to shelter in place, stay at home, quarantine, or otherwise restrict their own mobility.

3. Do the terms “son” or “daughter” have specific meaning under Emergency Paid Sick Leave?

Yes. The terms “son” or “daughter” are defined as a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age or is 18 years of age or older and “incapable of self-care because of a mental or physical disability.”

4. Are any UAS employees not eligible for Emergency Paid Sick Leave?

No. All UAS employees are eligible for EFML.

5. What leave benefits does the Emergency Paid Sick Leave provide?

The EPSL states that covered employers are required to provide all employees, exempt and non-exempt, with emergency paid sick leave to the extent the employee is unable to work or telework due to any of the following reasons:

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID–19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID–19.
3. The employee is experiencing symptoms of COVID–19 and seeking a medical diagnosis.

4. The employee is caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19, or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
5. The employee is caring for a son or daughter whose school or place of care has been closed, or the childcare provider of such son or daughter is unavailable, due to COVID-19 precautions.

6. How many total hours of Emergency Paid Sick Leave do employees get?

Full time employees (e.g., 40 hours per week) will receive 80 hours, while part-time employees will receive the number of hours equal to the average number of hours the employee works in a two-week period.

7. Can Emergency Paid Sick Leave be taken on a Continuous or Intermittent basis?

It depends on why the employee is taking paid sick leave and whether the employer agrees. EPSL must be taken on a Continuous basis for all reasons listed above except for Reason #5 related to childcare. Only EPSL for childcare reasons may be taken on an intermittent basis. For example, if the employer and employee agree, the employee could take EPSL on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while the child is at home because the child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

EPSL must also be taken in full-day increments. Once the employee begins taking EPSL for one or more of these qualifying reasons, the employee must continue to take the EPSL each day until either (1) the full amount of paid sick leave is used; or (2) the employee no longer has a qualifying reason for taking EPSL. If an employee no longer has a qualifying reason for taking EPSL before exhausting the paid sick leave, he or she may take any remaining EPSL at a later time, until December 31, 2020, if another qualifying reason occurs.

8. Does the Emergency Paid Sick Leave require UAS to pay employees?

Yes. The rate at which UAS must pay EPSL hours is calculated based on the employee's regular compensation subject to the following rules:

- Leave taken by the employee for their own care (reasons (1)-(3) above) ("Self Care") is paid at the employee's regular rate of pay and shall not exceed \$511 per day or \$5,110 in the aggregate.
- Leave taken by the employee to care for others (reasons (4)-(5) above) ("Family Care"), is paid at two-thirds of the employee's regular rate of pay and shall not exceed \$200 per day or \$2,000 in the aggregate.
- If an employee is approved for Expanded Family Medical Leave, the employee may use EPSL during the first ten unpaid days of that leave period or substitute any accrued annual leave, sick leave, or compensatory time.

9. For purposes of Emergency Paid Sick Leave, can an employee supplement the remaining of employee's regular rate of pay with other accrued leave?

Yes. At this time, an employee may elect to use accrued annual leave, sick leave, or personal leave to supplement any unpaid portion of EPSL leave.

10. Do employees have to use any other accrued leave time before they can use Emergency Paid Sick Leave?

No. Employees are not required to use other available paid leave first before using the emergency paid sick leave hours.

11. Does UAS have specific documentation requirements for employees to request EPSL?

Yes, an employee must complete a detailed Employee Statement in support of the reasons for paid sick leave. For example, this document may require information about the Federal, State or local quarantine or isolation order related to COVID-19 or written documentation by a health care provider advising the employee to self-quarantine due to concerns related to COVID-19. Employees should contact UAS Human Resources to request appropriate forms to request EPSL.

- EPSL requests for “Self-Care” leave (Reasons #1 – 3) and “Family Care” leave (Reason #4) must complete an Employee Statement for Isolation/Quarantine Reasons form listing names of government entity or healthcare provider recommending quarantine/isolation, and/or information about family member.
- EPSL requests for “Family Care” (Reason #5) for childcare must complete the Employee Statement for Childcare Reasons from certifying names, ages, and school or place of care for each child. The same DocuSign form applies for Expanded Family Medical Leave requests.

12. Are employees required to communicate with the employer to continue to receive Emergency Paid Sick Leave?

Yes. After the first workday (or portion thereof) that an employee receives emergency paid sick leave under the EPSL, an employer may require the employee to follow reasonable notice procedures to continue receiving such paid sick leave. The leave ends with the first scheduled shift immediately following the termination of the need for leave for any of the reasons set forth above.

13. Is it possible for an employee to receive benefits under both EFML and EPSL if they are home with a child because the school or place of care is closed, or a childcare provider is unavailable?

Yes. Employees who satisfy the eligibility requirements of both EPSL and EFML are entitled to benefits under both laws only to care for a son or daughter while school or place of care is closed. These employees may receive some measure of paid benefits for up to 14 workweeks of leave (up to two workweeks for EPSL and 12 workweeks for EFML). Employees may elect to use two weeks (80 hours) of EPSL **before** 12 workweeks of EFML starts, **during** EFML to cover the first ten unpaid workdays of EFML, or **after** the 12 workweeks of EFML ends.

14. How can an employee apply for Emergency Paid Sick Leave?

Employees who request Emergency Paid Sick Leave (“EPSL”) should contact UAS Human Resources to request submit the EPSL Request Form.

15. How long will it take to be approved for Emergency Paid Sick Leave?

UAS Human Resources will determine eligibility and respond to all requests via email in approximately five business days and ask employees to submit required documentation within 15 calendar days. Once documentation is received, UAS Human Resources will approve or deny the request in approximately five business days. If approved, an employee’s leave request will be retroactive back to the date the request form was submitted.