

COVID-19: Employer Best Practices



COVID-19

Eastern Carolina Council

August 13, 2020

Jill R. Quattlebaum



GRADY | QUATTLEBAUM, PLLC
ATTORNEYS

COVID-19: Employer Best Practices

Families First Coronavirus Response Act “FFCRA”



COVID-19: Employer Best Practices

Applies to leave taken from April 1, 2020 through
December 31, 2020



COVID-19: Employer Best Practices

Two main provisions

Emergency Paid Sick Leave Act

Emergency Family and Medical Leave Expansion Act



COVID-19: Employer Best Practices

Covered Employers

Public agencies or other units of government are covered. Private sector employers with less than 500 employees are subject to the paid leave provisions of the FFCRA.



COVID-19: Employer Best Practices

Covered Employees

All employees who have been employed 30 days prior to the first day of the requested leave are covered. If an employee wants to start leave on April 1, 2020, he would need to have been on the employer's payroll March 2, 2020.



COVID-19: Employer Best Practices

Exceptions

Health care providers and emergency responders may be excluded by their employers from receiving Paid Sick Leave or Expanded Family and Medical Leave.



COVID-19: Employer Best Practices

Emergency Paid Sick Leave Act

Employees may take leave if they are unable to work because the employee:

1. Is subject to a federal, state, or local quarantine or isolation order related to COVID-19 (including stay-at-home and shelter-in-place orders);
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 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
6. Is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services.



COVID-19: Employer Best Practices

Emergency Paid Sick Leave Act

Provides up to two weeks (80 hours) of paid leave. Part time employees are eligible for the number of hours they regularly work over a two week period (6 month average is used when hours fluctuate).



COVID-19: Employer Best Practices

Emergency Paid Sick Leave Act

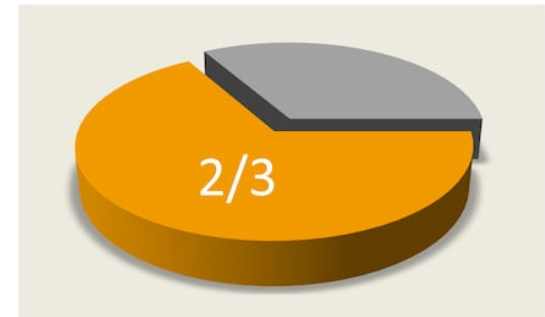
Leave for reasons (1) through (3) is paid at 100% of the employee's regular wages for up to \$511.00 daily, and \$5,110.00 total.



COVID-19: Employer Best Practices

Emergency Paid Sick Leave Act

Leave for reasons (4) through (6) is paid at $\frac{2}{3}$ of the employee's regular wages for up to \$200 per day, and \$2,000.00 total.



shutterstock.com • 1226830057

COVID-19: Employer Best Practices

Emergency Family and Medical Leave Expansion Act

Employee is entitled to up to 10 weeks paid expanded family and medical leave to care 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. Leave is subject to a 10 day waiting period.



COVID-19: Employer Best Practices

Emergency Family and Medical Leave Expansion Act

Leave is paid at 2/3 regular rate of pay of up to \$200 per day, for a maximum of \$12,000 (over the 12 week period: 2 weeks of paid sick leave followed by expanded family and medical leave).



COVID-19: Employer Best Practices

Information Required from Employee: Paid Sick Leave

- Name;
- The date of requested leave;
- The reason for leave; and
- A statement that the employee is unable to work because of a qualifying reason.

Information may be provided orally or in writing.



COVID-19: Employer Best Practices

Information Required from Employee: Expanded Family and Medical Leave

- The name of the employee's child;
- The name of the school, place of care, or child care provider that has closed or become unavailable; and
- A statement that no other suitable person is available to care for the employee's child.



COVID-19: Employer Best Practices

Definition of Child Under Expanded Family and Medical Leave

A biological, adopted or foster child, a legal ward, or a child for whom the employee is standing in “loco parentis” (someone with day-to-day responsibilities to care for or financially support a child).



COVID-19: Employer Best Practices

Expanded Family and Medical Leave

When schools are closed but are still providing online learning, coverage is available. But when schools are closed for summer vacation, coverage is not available.



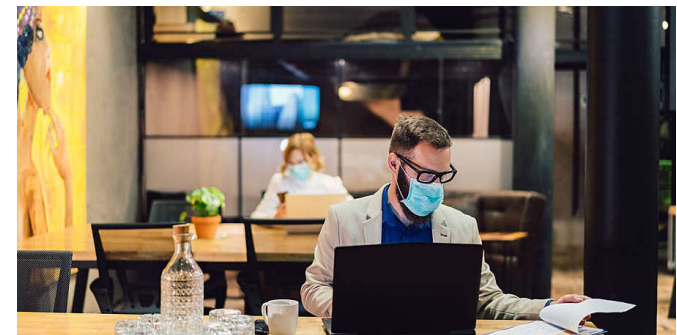
COVID-19: Employer Best Practices

Does an employee have a legal right to stay home due to fear of contracting COVID-19?



COVID-19: Employer Best Practices

No, and the employee may stay home only if the employer agrees. Leave taken by the employee for the purpose of avoiding exposure to COVID-19 is not protected under the FFCRA or the FMLA.



COVID-19: Employer Best Practices

Keeping the Workplace Safe

It is acceptable to ask employees if they have a cough, fever, chills, or sore throat before allowing them to enter the workplace.



COVID-19: Employer Best Practices

Keeping the Workplace Safe

Employers may take the temperature of symptomatic employees.



COVID-19: Employer Best Practices

Keeping the Workplace Safe

Employees reporting symptoms may be sent home and required to stay home until they are symptom free.



COVID-19: Employer Best Practices

What happens when an employee (who has had exposure to other employees in the workplace) is diagnosed with COVID-19?



COVID-19: Employer Best Practices

Confidentiality concerns keep the employer from releasing the name of the infected employee to other employees. The employer should contact the County Health Department, who will contact employees with whom the diagnosed employee has had “close contact”.



COVID-19: Employer Best Practices

Employers should ask the infected employee to identify all employees/individuals with whom they have had close contact.



COVID-19: Employer Best Practices

Employers should send all employees home who have had “close contact” with the infected individual. “Close contact” is defined as working within a proximity of less than 6 feet for more than a brief period within the preceding 14 days. The employer may advise these employees that they may be receiving communication from the County Health Department.



COVID-19: Employer Best Practices

Limit Contamination

NCDHHS guidance instructs that employers should limit access to contaminated or potentially contaminated areas until they have been thoroughly cleaned. The employer should clean the work space in accordance with the recommendations of the Center for Disease Control.



COVID-19: Employer Best Practices

How to Clean

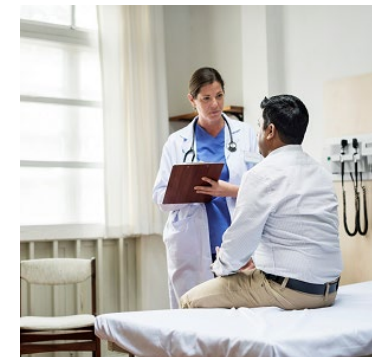
- Minimize number of people exposed to area
- Wear gloves and appropriate personal protective equipment (“PPE”)
- Clean (with bleach) all surfaces with which the employee may have come into contact
- Safely dispose of waste
- Wash hands often



COVID-19: Employer Best Practices

Return to Work

Employer may require a fit for duty certification from a healthcare provider before allowing an employee to return to work.



COVID-19: Employer Best Practices

Return to Work

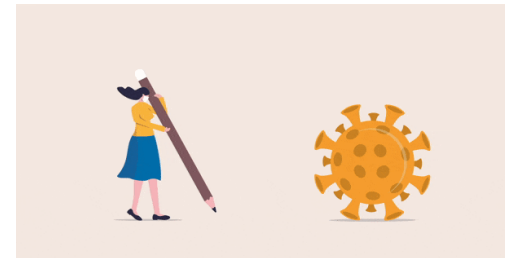
Employer should be flexible regarding documentation.



COVID-19: Employer Best Practices

Take-away

Practice social distancing



COVID-19: Employer Best Practices

Take-away

Use infection control measures such as masks and personal protective equipment (“PPE”) for employees and visitors.



COVID-19: Employer Best Practices

Take-away

Maximize teleworking to minimize exposure



COVID-19: Employer Best Practices

Take-away

Communication is key



COVID-19: Employer Best Practices

QUESTIONS?



Thank you for your time and attention.



Please call if you have any further questions.

252-670-6208

