



Employee Leave Options

COVID-19

What leave options are available for employees?

Employees may apply for the Families First Corona Relief Act (FFCRA) or the Family and Medical Leave Act (FMLA) if you meet federal qualifications. You can also use available sick and annual leave or leave without pay.

When can FFCRA time be used?

This paid leave is for time taken from April 1 to December 31, 2020. If all eligibility criteria are met, employees are eligible for two weeks of paid sick time for specified reasons related to COVID-19. Employees employed for at least 30 days are eligible for up to an additional 10 weeks of paid family leave to care for a child under certain circumstances related to COVID-19.

What qualifies under FFCRA?

An employee qualifies for paid sick time if the employee is unable to work or work remotely because the employee is:

1. Under a federal, state, or local quarantine or isolation order related to COVID-19.
2. Advised by a health care provider to self-quarantine due to COVID-19.*
3. Experiencing COVID-19 symptoms and is seeking a medical diagnosis.
4. Caring for an individual under a self or health care provider-advised quarantine.
5. Caring for a child whose school or child care is closed or unavailable due to COVID-19.
6. Experiencing any other substantially similar condition specified by the secretary of Health and Human Services in consultation with the secretaries of Labor and Treasury.

Under the FFCRA, an employee qualifies for expanded family leave if the employee is caring for a child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19.

**If you believe you may have been exposed to COVID-19, you are encouraged to visit your health care provider for guidance and clearance before returning to work. In order for us to assess your eligibility under section 2 of the FFCRA, you will need to provide documentation from your health care provider relative to COVID-19. If no documentation is submitted, then you may still opt to use any of your accrued leave or leave without pay.*

Is there additional leave available?

After a 10-day, unpaid waiting period, expanded paid family and medical leave of up to 10 weeks is available at $\frac{2}{3}$ of an employee's rate of pay when you are unable to work because a school or child care provider is closed or unavailable due to COVID-19. You can but are not required to use available leave days during the 10-day waiting period.

How long can an employee be out under FFCRA?

If an employee is out because they are under a quarantine order or medical advice to stay home, experiencing COVID-19 symptoms or caring for someone else, full-time employees are eligible for 80 hours of leave. Part time employees are eligible for the number of hours of leave that the employee works on average over a two-week period. If an employee is out because they are caring for a child, they are eligible for up to 12 weeks of leave. This includes two weeks of paid sick leave and one week of paid expanded family medical leave. A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

How much will I be paid while taking paid sick leave or expanded family and medical leave under the FFCRA?

It depends on your normal schedule as well as why you are taking leave. If you are taking paid sick leave because you are unable to work or work remotely due to a need for leave because you are under a federal, state, or local quarantine or isolation order related to COVID-19, have been advised by a health care provider to self-quarantine due to concerns related to COVID-19, or have symptoms of COVID-19 and are seeking medical diagnosis, you will receive for each applicable hour the greater of:



Employee Leave Options

COVID-19

1. Your regular rate of pay
2. The federal minimum wage in effect under the Fair Standards and Labor Act or
3. The applicable state or local minimum wage

You are entitled to a maximum of \$511 per day or \$5,110 total over the entire paid sick leave period.

If you are taking paid sick leave because you are caring for an individual who is subject to a federal, state, or local quarantine or isolation order related to COVID-19, were advised by a health care provider to self-quarantine due to concerns related to COVID-19 or caring for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons or experiencing any other substantially-similar condition that may arise, you are entitled to compensation at $\frac{2}{3}$ of the great of the amounts above.

You are subject to a maximum of \$200 per day or \$2,000 over the entire two-week period.

If you are taking expanded family and medical leave, you may take paid sick leave for the first 10 days of that leave period, or you may substitute any accrued vacation leave, personal leave, or medical or sick leave you have accrued. For the following 10 weeks, you will be paid for your leave at an amount no less than $\frac{2}{3}$ of your regular rate of pay for the hours you would be normally scheduled to work. The regular rate of pay used to calculate this amount must be at or above the federal minimum wage, or other applicable state or local minimum wage. However, you will not receive more than \$200 per day or \$12,000 for the 12 weeks that include both paid sick leave and expanded family and medical leave when you are on leave to care for your child whose school or place of care is closed or child care provider is unavailable.

May I take 80 hours of paid sick leave for my self-quarantine and then another amount of paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?

No. You may take up to two weeks or 10 days (80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

If I am home with my child because his or her school or place of care is closed, or child care provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both-how do they interact?

You may be eligible for both types of leave, but only for a total of 12 weeks of paid leave. You may take both paid sick leave and expanded family and medical leave to care for your child whose school or place of care is closed, or child care provider is unavailable.

The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period covers the first 10 workdays of expanded family and medical leave, which are otherwise unpaid under Emergency and Family Medical Leave Expansion Act unless you choose to use existing vacation, personal, or sick leave under your employer's policy. After the first 10 workdays, you will receive $\frac{2}{3}$ of your regular rate of pay for the hours you would have been scheduled to work in the subsequent 10 weeks under the Emergency and Family Medical Leave Expansion Act.

You can only receive the additional 10 weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 reasons.



Employee Leave Options

COVID-19

Can my employer deny my paid sick leave if my employer gave me paid leave for a reason identified in the Emergency Paid Sick Leave Act prior to the Act going into effect?

No. The Emergency Paid Sick Leave Act imposes a new leave requirement on employers that is effective beginning on April 1, 2020.

Is all leave under the FMLA now paid leave?

No. The only type of family and medical leave that is paid leave is expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act when leave exceeds 10 days. This includes only leave taken because the employee must care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

Are the paid sick leave and expanded family and medical leave requirements retroactive?

No.

How do I know whether I have “been employed for at least 30 calendar days by the employer” for purposes of expanded family and medical leave?

You have been employed by your employer for at least 30 calendar days if your employer had you on its payroll for the 30 days immediately prior to the day your leave would begin. For example, if you want to take leave on April 1, you would need to have been on your employer's payroll as of March 2.

If I am or become unable to work remotely, am I entitled to paid sick leave or expanded family and medical leave?

If you are working remotely and you are unable to perform those tasks or work the required hours because of one of the qualifying reasons for paid sick leave, then you are entitled to take paid sick leave.

Similarly, if you are unable to perform those working remotely tasks or work the required working remotely hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, then you are entitled to take expanded family and medical leave. Of course, to the extent you can work remotely while caring for your child, paid sick leave and expanded family and medical leave is not available.

May I take my paid sick leave or expanded family and medical leave intermittently while working remotely?

Yes. If you are working remotely and are unable to work your normal schedule of hours due to one of the qualifying reasons in the Emergency Paid Sick Leave Act. In that situation, you and your employer may agree that you may take paid sick leave intermittently while working remotely. If you are prevented from working remotely your normal schedule of hours because you need to care for your child whose school or place of care is closed, child care provider is unavailable, because of COVID-19 related reasons, you and your employer may agree that you can take expanded family medical leave intermittently while working remotely.

You may take intermittent leave in any increment, if you and your employe agree. For example, if you agree on a 60-minute increment, you could work remotely from 1:00 pm to 2:00 pm, take leave from 2:00 pm to 3:00 pm and then return to working remotely.



Employee Leave Options

COVID-19

May I take my paid sick leave intermittently while working at my usual worksite?

It depends on why you are taking paid sick leave and whether your employer agrees. Unless you are working remotely, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

1. Under a federal, state, or local quarantine or isolation order related to COVID-19
2. Advised by a health care provider to self-quarantine due to COVID-19
3. Experiencing COVID-19 symptoms and is seeking a medical diagnosis
4. Caring for an individual under a self or health care provider-advised quarantine
5. Caring for a child whose school or child care is closed or unavailable due to COVID-19
6. Experiencing any other substantially similar condition specified by the secretary of Health and Human Services in consultation with the secretaries of Labor and Treasury

Unless you are working remotely, once you begin taking paid sick leave for one or more of these qualifying reasons, you must continue to take paid sick leave each day until you either use the full amount of paid sick leave or no longer have a qualifying reason for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

If you no longer have a qualifying reason for taking paid sick leave before you use your paid sick leave, you may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

In contrast, if you and your employer agree, you may take paid sick leave intermittently if you are taking paid sick leave to care for your child whose school or place of care is closed, or whose child care provider is unavailable, because of COVID-19 related reasons. For example, if your child is at home because his or her school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you may take paid sick leave on Monday, Wednesdays, and Fridays to care for your child, but work at your normal worksite on Tuesdays and Thursdays.

May I take my expanded family and medical leave intermittently while my child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, if I am not working remotely?

Yes, but only with your employer's permission. Intermittent expanded family and medical leave should be permitted only when you and your employer agree upon such a schedule.

Do I qualify for leave for a COVID-19 related reason even if I have already used some, or all of, my leave under the Family and Medical Leave Act (FMLA)?

If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

However, if your employee was covered by the FMLA prior to April 1, 2020, your eligibility for expanded family and medical leave depends on how much leave you have already taken during the 12-month period that your employer uses for FMLA leave. You may take a total of 12 work weeks for FMLA or expanded family and medical leave reasons during a 12-month period. If you have taken some, but not all, 12 work weeks of your leave under FMLA during the current 12-month period determined by your employer, you may take the remaining portion of leave available. If you have already taken 12 work weeks of FMLA leave during this 12-month period, you may not take additional expanded family and medical leave.



Employee Leave Options

COVID-19

For example, assume you are eligible for pre-existing FMLA leave and took two weeks of such leave in February 2020 to undergo and recover from a surgical procedure. You, therefore, have 1- weeks of FMLA leave remaining. Because expanded family and medical leave is a type of FMLA leave, you would be entitled to take up to 10 weeks of expanded family and medical leave, rather than 12 weeks. And any expanded family and medical leave you take would count against your entitlement to pre-existing FMLA leave.

If your employer only becomes covered under FMLA on April 1, 2020, this analysis does not apply.

How do I know if I can receive paid sick leave for a federal, state, or local quarantine or isolation order related to COVID-19?

Under FFCRA, a federal, state, or local quarantine or isolation order includes quarantine or isolation orders, as well as shelter-in-place or stay-at-home orders, issued by any federal, state, or local government authority that cause you to be unable to work or work remotely, even though your employer has work that you could perform but for the order. You may not take paid sick leave for this qualifying reason if your employer does not have work for you as a result of a shelter-in-place or stay-at-home order.

When am I eligible for paid sick leave to self-quarantine?

You are eligible for paid sick leave if a health care provider directs or advises you to stay home or otherwise quarantine yourself because the health care provider believes that you may have COVID-19 or are particularly vulnerable to COVID-19, and quarantining yourself based upon that advice prevents you from working or working remotely.

What if I become ill with COVID-19 symptoms, decide to quarantine myself for two weeks, and then return to work? If I do not seek a medical diagnosis or the advice of a health care provider, can I get paid for those two weeks under the FFCRA?

Generally, no. If you become ill with COVID-19 symptoms, you may take paid sick leave under the FFCRA only to seek a medical diagnosis or if a health care provider otherwise advises you to self-quarantine. If you test positive for the virus associated with COVID-19 or are advised by a health care provider to self-quarantine, you may continue to take paid sick leave. You may not take paid sick leave under the FFCRA if you decide to self-quarantine for an illness without medical advice, even if you have COVID-19 symptoms. You cannot take paid sick leave under FFCRA if you become ill with an illness not related to COVID-19. Depending on your employer's expectations and your condition, however, you may be able to work remotely during your period of quarantine.

When am I eligible for paid sick leave to care for someone who is subject to a quarantine or isolation order?

You may take paid sick leave to care for an individual who, as a result of being subject to a quarantine or isolation order, is unable to care for him or herself and depends on you for care and if providing care prevents you from working and from working remotely.

You may only take paid sick leave to care for an individual who genuinely needs your care. Such an individual includes an immediate family member or someone who regularly resides in your home. You may also take paid sick leave to care for someone if your relationship creates an expectation that you would care for the person in a quarantine or self-quarantine situation, and that individual depends on you for care during the quarantine or self-quarantine.

You may not take paid sick leave to care for someone with whom you have no relationship. Nor can you take paid sick leave to care for someone who does not expect or depend on your care during his or her quarantine or self-quarantine due to COVID-19.



Employee Leave Options

COVID-19

Can I take paid sick leave to care for any individual who is subject to a quarantine or isolation order or who has been advised to self-quarantine?

No. You may take paid sick leave under the FFCRA to care for an immediate family member or someone who regularly resides in your home. You may also take paid sick leave under the FFCRA to care for someone where your relationship creates an expectation that you care for the person in a quarantine or self-quarantine situation, and that individual depends on you for care during the quarantine or self-quarantine.

You may not take paid sick leave under the FFCRA to care for someone with whom you have no relationship. Nor can you take paid sick leave under the FFCRA to care for someone who does not expect or depend on your care during his or her quarantine or self-quarantine due to COVID-19.

When am I eligible for paid sick leave to care for someone who is self-quarantining?

You may take paid sick leave to care for a self-quarantining individual if a health care provider has advised that individual to stay home or otherwise quarantine him or herself because he or she may have COVID-19 or is particularly vulnerable to COVID-19 and provision of care to that individual prevents you from working or working remotely.

May I take paid sick leave or expanded family and medical leave to care for my child who is 18 years old or older?

Under the FFCRA, paid sick leave and expanded family and medical leave include leave to care for one (or more) of your children when his or her school or place of care is closed or child care provider is unavailable, due to COVID-19 related reasons. This leave may only be taken to care for your non-disabled child if he or she is under the age of 18. If your child is 18 years of age or older with a disability and cannot care for him or herself due to that disability, you may take paid sick leave and expanded family and medical leave to care for him or her if his or her school or place of care is closed or their child care provider is unavailable, due to COVID-19 related reasons, and you are unable to work or work remotely as a result.

In addition, paid sick leave is available to care for an individual who is subject to a federal, state, or local quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self quarantine due to concerns related to COVID-19. If you have a need to care for your child age 18 or older who needs care for these circumstances, you may take paid sick leave if you are unable to work or work remotely as a result of providing care. But in no event may your total sick leave exceed two weeks.

When am I eligible for paid sick leave based on a “substantially similar condition” specified by the U. S. Department of Health and Human Services?

The U. S. Department of Health and Human Services (HHS) has not yet identified any “substantially similar condition” that would allow an employee to take paid sick leave. If HHS does identify any such condition, the Department of Labor will issue guidance explaining when you may take paid sick leave on the basis of a substantially similar condition.

How and when should I notify HR that I may need to take a leave?

An employee should provide notice as soon as possible to the Human Resource department at (704) 866-6129 or by email at humanresources@gaston.k12.nc.us.