

FAMILIES FIRST CORONAVIRUS RESPONSE ACT NOTICE AND LEAVE DOCUMENTATION

Emergency Paid Sick Leave Act (EPSLA)

Notice of need for Leave:

For EPSLA reasons, other than school closure/childcare provider unavailability, the employee can be required to provide notice after the first workday or part workday that an employee takes leave, and oral notice is sufficient. We strongly recommend that employees be provided a standardized form for completion and if the need for leave is provided orally the form be completed on their behalf.

For school closure/childcare provider unavailability, where such leave is foreseeable, notice as soon as practical can be expected. Once notice of the reason for leave is provided, the employee can be required to follow the employer's regular procedures for call in or staying in touch during the leave.

If an employee fails in some manner to follow notice expectations, or fails to provide supporting information or documentation, the employer must give the employee notice of the failure and an opportunity to cure the deficiency before denying leave.

Documentation:

In addition to submitting name, dates of requested leave, the qualifying reason for leave, and an oral or written statement that the employee is unable to work because of the qualifying reason, the employee **must also provide the employer** the following information or documentation to support the various reasons for EPSLA leave:

Qualifying Reason #1: Employee is subject to an isolation or quarantine order related to COVID-19: **the name of the governmental entity that issued the order.**

Qualifying Reason #2: Regarding the situation where a health care provider advises an employee to self-quarantine due to concerns related to COVID-19: **the name of the health care provider who advised the employee to self-quarantine.**

Qualifying Reason #4: Employee is caring for an individual who is subject to a quarantine or isolation order: **the name of the governmental entity that issued the order.**

Qualifying Reason #5: Employee is caring for a child whose school is closed or whose childcare is unavailable due to COVID-19 concerns under both EPSLA and EPFMLA: **the name of the child, name of the school, and that the place of care or childcare provider that has closed or become unavailable.**

In addition, on March 31, 2020, the IRS issued guidance regarding what documentation will be necessary for an employer to apply for a tax credit under the FFCRA. In the guidance, the IRS stated that an employee, when requesting EPSL or EPFMLA to care for a child whose school or place of care is closed, must provide a statement that "no other person will be providing care for the child during the period for which the employee is receiving [paid leave under the FFCRA]." The

FAMILIES FIRST CORONAVIRUS RESPONSE ACT NOTICE AND LEAVE DOCUMENTATION

DOL's temporary rule confirmed that leave to care for a child as described above is only available "if no suitable person is available to care for [the employee's child] during the period of such leave."

The FFCRA's statutory **definition of child care provider** is "a provider who receives compensation for providing child care services on a regular basis." The DOL's temporary rule deviates from this statutory language and expands the term to include family members, friends and neighbors who regularly care for the child but who are not compensated or licensed.