**Frequently Asked Questions**

**State and Federal Emergency Paid Sick Leave**

**Q: What kind of benefits do I need to provide for my employees?**

**A:** NYS Law states that, “if at any point while this section shall be in effect the federal government by law or regulation provides sick leave and/or employee benefits for employees related to COVID-19, then the provisions of this section, including, but not limited to, paid sick leave, paid family leave, and benefits due to disability, **shall not be available to any employee otherwise subject to the provisions of this section; provided, however, that if the provisions of this section would have provided sick leave and/or employee benefits in excess of the benefits provided by the federal government by law or regulation**, then such employee shall be able to claim such additional sick leave and/or employee benefits pursuant to the provisions of this section in an amount that shall be the difference between the benefits available under this section and the benefits available to such employee, if any, as provided by such federal law or regulation.”

Below is a comparison of the benefits available from the **Families First Coronavirus Response Act (FFCRA) for all employers with under 500 employees** and **NY Paid Family Leave COVID-19 (NYPFL) for private employers with less than 10 employees** and with less than $1 million revenue including association libraries, employers with more than 10 employees including association libraries, and public employers, which would include municipal, school district, and special district libraries.

| **#** | **Employee Condition** | **Federal** | **NY <10 Emp.** | **NY >10 Emp.** | **NY Public** |
| --- | --- | --- | --- | --- | --- |
| 1 | is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 | 100% for 80 hours | 0 sick days / job protection / special PFL up to $840.70 and then special TDI up to 100% $2,043.92 max | 5 Sick days / job protection After sick days – special PFL up to $840.70 and then special TDI up to 100% $2,043.92 max | 14 days at 100% / job protection |
| 2 | has been advised by a health care provider to self-quarantine related to COVID-19; | 100% for 80 hours | N/A | N/A | N/A |
| 3 | is experiencing COVID-19 symptoms and is seeking a medical diagnosis; | 100% for 80 hours | N/A | N/A | N/A |
| 4 | is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | 2/3 pay for 80 hours | PFL 60% of average weekly wage up to $840.80 ([link](https://paidfamilyleave.ny.gov/if-your-minor-dependent-child-quarantined#what-are-the-benefits-)) | 60% of average weekly wage up to $840.80 ([link](https://paidfamilyleave.ny.gov/if-your-minor-dependent-child-quarantined#what-are-the-benefits-)) | 14 days at 100% / job protection (same pool as above) PFL possible if opted in |
| 5 | is caring for his or her child whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19 related reasons; | 2/3 pay for 80 hours – Up to 12 weeks at 2/3 pay | N/A | N/A | N/A |
| 6 | is experiencing any other substantially similar condition specified by the U.S. Department of Health and Human Services. | 2/3 pay for 80 hours | N/A | N/A | N/A |

**Q: If my employer closed my worksite before April 1, 2020 (the effective date of the FFCRA), can I still get paid sick leave or expanded family and medical leave?**

**A:** No. If, prior to the FFCRA’s effective date, your employer sent you home and stops paying you because it does not have work for you to do, you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it is required to close pursuant to a Federal, State, or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. It should be noted, however, that if your employer is paying you pursuant to a paid leave policy or State or local requirements, you are not eligible for unemployment insurance.

*SOURCE:* [*Families First Coronavirus Response Act: Questions and Answers*](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)*,****Wage and Hour Division U.S. Department of Labor***

**Q: Is it necessary to provide additional benefits if the employer already provides sick leave benefits equal to those required by the new state or federal laws?**

**A:** Paid sick leave under the Emergency Paid Sick Leave Act is in addition to any form of paid or unpaid leave provided by an employer, law, or an applicable collective bargaining agreement. An employer may not require employer-provided paid leave to run concurrently with—that is, cover the same hours as—paid sick leave under the Emergency Paid Sick Leave Act.

**Q: Can my employer require me to use my existing sick leave accruals or other accruals (paid time off) for a COVID-19 quarantine order?**

**A:** No. Employers required to provide paid sick leave must provide that leave separate from any accruals.

*SOURCE:* [*New York Paid Family Leave COVID-19: Frequently Asked Questions*](https://paidfamilyleave.ny.gov/new-york-paid-family-leave-covid-19-faqs#benefits)

**Q: How many hours of emergency paid sick leave are employees entitled to under the FFCRA?**

**A:** Generally, employers covered under the Act must provide employees up to two weeks (80 hours, or a part-time employee’s two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

* 100% for qualifying reasons #1-3 below, up to $511 daily and $5,110 total;
* 2/3 for qualifying reasons #4 and 6 below, up to $200 daily and $2,000 total;

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
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 childcare 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.

*SOURCE:* [*Families First Coronavirus Response Act: Questions and Answers*](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)*,****Wage and Hour Division U.S. Department of Labor***

**Q: How do I count hours worked by a part-time employee for purposes of paid sick leave or expanded family and medical leave?**

**A:** A part-time employee is entitled to leave for his or her average number of work hours in a two-week period. Therefore, you 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, you may use a six-month average to calculate the average daily hours. Such a part-time employee may take paid sick leave for this number of hours per day for up to a two-week period, and may take expanded family and medical leave for the same number of hours per day up to ten weeks after that.

If this calculation cannot be made because the employee has not been employed for at least six months, use the number of hours that you and your employee agreed that the employee would work upon hiring. And if there is no such agreement, you may calculate the appropriate number of hours of leave based on the average hours per day the employee was scheduled to work over the entire term of his or her employment.  
*SOURCE:* [*Families First Coronavirus Response Act: Questions and Answers*](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)*,****Wage and Hour Division U.S. Department of Labor***

**Q: Is the number of paid days workdays or calendar days?**

**A:** The number of paid days is calendar days, and the pay required should represent the amount of money that the employee would have otherwise received for the 5- or 14-day period.

*SOURCE:* [*New York Paid Family Leave COVID-19: Frequently Asked Questions*](https://paidfamilyleave.ny.gov/new-york-paid-family-leave-covid-19-faqs#benefits)

**Q: May I take paid sick leave or expanded family and medical leave under the FFCRA if I am on an employer-approved leave of absence?**

**A:** It depends on whether your leave of absence is voluntary or mandatory. If your leave of absence is voluntary, you may end your leave of absence and begin taking paid sick leave or expanded family and medical leave under the FFCRA if a qualifying reason prevents you from being able to work (or telework). However, you may not take paid sick leave or expanded family and medical leave under the FFCRA if your leave of absence is mandatory. This is because it is the mandatory leave of absence—and not a qualifying reason for leave—that prevents you from being able to work (or telework).

In the instance of a mandatory leave of absence, you may be eligible for unemployment insurance benefits. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.  
*SOURCE:* [*Families First Coronavirus Response Act: Questions and Answers*](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)*,****Wage and Hour Division U.S. Department of Labor***

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

**A:** 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 teleworking).

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

**A:** 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 teleworking).  
*SOURCE:*[***Families First Coronavirus Response Act: Questions and Answers***](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)***, Wage and Hour Division U.S. Department of Labor***

**Q: Confirm, please, that municipal, school district and special district libraries are public employers and that association libraries are private.**

**A:** For the purposes of NYS Paid Family Leave, association libraries are considered private employers, and municipal, school district and special district libraries are public employers.

*SOURCE:* [*HR Legal Issues Webinar Series: NYS Sexual Harassment Prevention Law & NYS Family Paid Leave Act (Recorded Webinar)*](https://youtu.be/k6q7Py9_kg0)*presented by Shari Fallon, PHR, SHRM-CP, Cornell University [2.19.19]*

**Q: What records do I need to keep when my employee takes paid sick leave or expanded family and medical leave?**

**A:** Regardless of whether you grant or deny a request for paid sick leave or expanded family and medical leave, you must document the following:

* The name of your employee requesting leave;
* The date(s) for which leave is requested;
* The reason for leave; and
* A statement from the employee that he or she is unable to work because of the reason.

If your employee requests leave because he or she is subject to a quarantine or isolation order or to care for an individual subject to such an order, you should additionally document the name of the government entity that issued the order. If your employee requests leave to self-quarantine based on the advice of a health care provider or to care for an individual who is self-quarantining based on such advice, you should additionally document the name of the health care provider who gave advice.

If your employee requests leave to care for his or her child whose school or place of care is closed, or childcare provider is unavailable, you must also document:

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

Private sector employers that provide paid sick leave and expanded family and medical leave required by the FFCRA are eligible for reimbursement of the costs of that leave through refundable tax credits. If you intend to claim a tax credit under the FFCRA for your payment of the sick leave or expanded family and medical leave wages, you should retain appropriate documentation in your records. You should consult Internal Revenue Service (IRS) applicable forms, instructions, and information for the procedures that must be followed to claim a tax credit, including any needed substantiation to be retained to support the credit. You are not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.  
*SOURCE:* [*Families First Coronavirus Response Act: Questions and Answers*](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)*,****Wage and Hour Division U.S. Department of Labor***

**Q: Who pays for emergency sick leave benefits?**

**A**: **For the FFCRA**, the employer would provide the sick leave with payroll tax credits possible. Consult your accountant or bookkeeper or more info.

*SOURCE:* [*Families First Coronavirus Response Act: Questions and Answers*](https://www.dol.gov/agencies/whd/pandemic/ffcra-questions)*,****Wage and Hour Division U.S. Department of Labor***

**A: For the NYS PLF COVID-19**, public libraries – municipal, school district, special district – would provide the 14 days of paid sick leave if they have not opted in to NYS PFL. Public libraries that have opted in to PFL should consult their PFL / Disability Insurer for more information. Private employers, which includes association libraries for PFL, would provide the [required number of days of sick leave by employer size](https://paidfamilyleave.ny.gov/new-york-paid-family-leave-covid-19-faqs#benefits). Following the required days of sick leave, PFL and possibly special Disability insurance if necessary, would pay for the remainder of the employee’s quarantine if it exceeded the number of days of sick leave required from the employer.