



FOLEY & FOLEY^{PC}
ATTORNEYS AT LAW

EMPLOYMENT LAW ALERT

March: In Like a Lion, Out Like a Really Angry Lion

March has been one heck of a year month. Even Congress has been working hard, with a rumor of another stimulus bill coming out in April. The behemoth that is the **Families First Coronavirus Response Act (FFCRA)** has left the Department of Labor (DOL) scrambling to keep up with questions. The DOL has released more guidance which is highlighted below:

- **Full time/part time** has been clarified for Paid Emergency Sick Leave and is based on a 40 hour week as full-time. The Emergency Family and Medical Leave provision does not distinguish between full and part time although hours paid are based on hours worked.
- **The definition of health care provider** for exclusions from Paid Sick Leave and Family and Medical Leave have been broadly defined. By contrast, the definition of health care provider who can determine a self quarantine is much more narrow.
- **Small business exemption:** In select circumstances, where the viability of a business as a going concern is at stake, some employers with less than 50 employees may be exempted from the emergency paid sick leave and family and medical leave if:
 - Use of the leaves would result in expenses and financial obligations exceeding revenue and cause the business to cease operating at a minimal level;
 - The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or
 - There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.

If you need assistance requesting a small business exemption, please reach out. We also update our **[FFCRA Compliance Package](#)** in real time to incorporate new guidelines and rules via email to keep your workplace up to date.

We are all grateful for our good health and are ready to help.

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