



FOLEY & FOLEY^P_C
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EMPLOYMENT LAW ALERT

Yes, More FFCRA Guidelines and the CDC Too

UPDATES: In response to newly published DOL and IRS guidance, [we updated our overview](#) of what employers need to know about the Families First Coronavirus Response Act. We also **updated our FFCRA Monitoring and Use Chart**. Our clients from coast to coast have found the contents of both our [COVID-19 Infectious Disease Toolkit](#) and our [FFCRA Compliance Package](#) to be very helpful. The contents, for which you receive updates, can be purchased for a fixed fee—mike@foleylawpractice.com

NEW FAQs: The DOL has continued to issue FFCRA Guidance in the last few days, in wake of the issuance of clarifying regulations. Here are some of the important clarifications for employers when considering employee eligibility for FFCRA leave:

- **What Qualifies for Government Mandated Quarantine?** The Regulations make it clear that an employee can take quarantine related paid sick leave when they are subject to a Shelter in Place or Stay at Home Order. The DOL has noted that an employee may only take this leave because of a shelter in place or stay at home order if the order causes the employee to be unable to work even though the employer has work the employee could perform but for the order. Employees cannot take paid sick leave for this reason if the employer does not have work for the employee as a result of a shelter-in-place or stay at home order.
- **An employee can only take leave for their own illness if they are seeking medical diagnosis of their symptoms.** Once the employee has obtained a medical diagnosis, the employee can only continue Paid Sick Leave if the employee has been ordered to self-quarantine by the healthcare provider or a government entity. An employee cannot take paid sick leave if the employee unilaterally decides to self-quarantine for an illness without medical advice.
- **An employee needs to genuinely care for an individual who is quarantined in order to qualify for paid sick leave for that reason.** Employees can take this leave for the following individuals: An immediate family member; A household member; A roommate; or Similar person with whom the Employee has a relationship that creates an expectation that the employee would care for the person.
- **Intermittent Leave:** Employers never have to offer intermittent leave for FFCRA, but if they do allow employees to use it, here are some restrictions:
 - Employees can only take intermittent leave for childcare needs if the

employee would otherwise need to report in to a worksite. This is because out of all of the FFCRA leaves, this particular leave is the least likely to spread COVID-19.

- If the employee is teleworking and would not report in physically to work, employers have the discretion to allow employees to take any of the leaves intermittently.
- **Limitations on Employee Eligibility:** Employees are only eligible for FFCRA leave when the worksites, including remote worksite, is open, and the employer has work for the employee. This means that if the Company has a shut down or is forced to close because of a non-essential business order, the employees are not eligible for FFCRA leave for the duration of that closure. If an employee is on a voluntary leave of absence – such as one related to self-quarantining because they are at high-risk of COVID-19 – the employee can end that leave of absence and take FFCRA leave instead for a qualifying reason. An employee is not eligible for FFCRA leave if the employee is on a mandated leave of absence, such as a company shutdown.

CDC UPDATE: The Centers for Disease Control (CDC) has published [new guidance](#) for cleaning and disinfecting your workplace in the event a COVID-19 illness is detected.

Our goal, always, is to offer solutions to keep your business moving. We can help.

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