

DARIEN BOARD OF EDUCATION
Darien, CT

Series 4000-C19-03
Personnel

FAMILIES FIRST CORONAVIRUS RESPONSE ACT LEAVE (NEW)

STATEMENT OF POLICY

In light of the global pandemic, and pursuant to the recently passed Families First Coronavirus Response Act (“FFCRA”), the Darien Board of Education (the “Board”) is amending its policy on FMLA and adopting a sick leave policy as explained below. These amendments relate to the Emergency Paid Sick Leave Act (“EPSLA”) and the Emergency Family and Medical Leave Expansion Act (“EFMLEA”), and are effective from April 1, 2020 through December 31, 2020, or until further notice from the Board.

EPSLA & EFMLEA LEAVES

Qualifying Reasons for EPSLA and EFMLEA Leaves

Under the FFCRA, an employee qualifies for leave under the EPSLA if the employee is unable to work (or unable to telework) because the employee:

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 child care provider is unavailable) for reasons related to COVID-19; or
6. is 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 EFMLEA leave if the employee is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) for reasons related to COVID-19. The first two (2) weeks of EFMLEA leave are unpaid, while the remaining ten (10) weeks are paid as set forth below.

Duration of EPSLA and EFMLEA Leaves

For Qualifying Reasons (1)-(4) and (6): A full-time employee (individual working forty (40) hours per week) is eligible for eighty (80) hours of EPSLA leave. A part-time employee is eligible for the number of hours of EPSLA leave that the employee works on average over a two (2) week period.

For Qualifying Reason (5): A full-time employee (individual working forty (40) hours per week) is eligible for an aggregate total of up to twelve (12) weeks of EFMLEA leave, so long as the childcare need exists for the duration of leave. A part-time employee is eligible for such leave for the number of hours that the employee is normally scheduled to work over that period. Employees may use their EPSLA leave concurrently with the first two (2) weeks of unpaid EFMLEA leave.

Calculation of Pay for of EPSLA and EFMLEA Leaves

For EPSLA Leave Reasons (1), (2), or (3): Employees taking leave are entitled to pay at either their regular rate or the applicable minimum wage, whichever is higher, up to \$511 per day and \$5,110 in the aggregate.

For EPSLA Leave Reasons (4) or (6): Employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$2,000 in the aggregate.

For EPSLA leave reason (5) and EFMLEA leave: Employees taking leave are entitled to pay at 2/3 their regular rate or 2/3 the applicable minimum wage, whichever is higher, up to \$200 per day and \$12,000 in the aggregate. While the first two (2) weeks of EFMLEA leave is unpaid, an employee may use paid EPSLA leave to receive compensation during that period. If the employee opts *not* to use EPSLA leave for this purpose, the employee would be eligible to receive \$200 per day and \$10,000 in the aggregate for weeks 3 through 12 of EFMLEA leave.

Determination of Eligibility Under a Qualifying Reason

Determination of an employee's eligibility for leave, including intermittent leave, will be made on a case-by-case basis and in accordance with the FFCRA, implementing regulations, and additional guidance provided by the United States Department of Labor.

EPSLA & EFMLEA COORDINATION WITH OTHER LEAVE

Sequence of Available Leaves

An employee may, but is not required to, use EPSLA leave during the first two (2) weeks of the unpaid portion of the EFMLEA leave period.

EPSLA Leave Adds to Existing Leave Benefits

EPSLA leave is in addition to other accrued leave provided pursuant to the relevant collective bargaining agreement or Board policy.

Effect of Use of Prior Federal FMLA Qualifying Leave on Eligibility for EFMLEA Leave

An employee's eligibility for EFMLEA leave depends on how much FMLA leave the employee has already taken during the twelve (12) months immediately preceding the start of EFMLEA. Any employee employed by the Board for at least thirty (30) days may take a total of 12 workweeks for EFMLEA leave during the applicable period. If an eligible employee has taken some, but not all, of twelve (12) workweeks under the federal FMLA during the 12-month period immediately preceding a request for EFMLEA, the employee may take the remaining portion of leave available. If the eligible employee has already taken twelve (12) workweeks of federal FMLA leave during this 12-month period, the employee may not take additional EFMLEA leave.

REQUIRED DOCUMENTATION FOR EPSLA, EFMLEA, AND FMLA LEAVES

EPSLA Leave

- All employees seeking EPSLA leave must provide the following:
 - Employee's name;
 - Date(s) for which leave is requested;
 - Qualifying reason for leave; and
 - A statement that the employee is unable to work because of the qualified reason for leave. This statement may be oral or written.

- In addition, employees must provide the following depending on the reason for taking EPSLA leave:
 - If an employee is taking EPSLA leave due to a quarantine or isolation order, the employee must identify the governmental entity that issued the order.
 - If an employee is taking EPSLA leave because a health care provider advised the employee to self-quarantine, the employee must identify the health care provider.
 - If an employee is taking EPSLA leave to care for a child whose school or place of care is closed, the employee must identify the name of the child being cared for, the name of the school or childcare provider that is closed or unavailable, and represent that no one else will be taking care of the child.

EFMLEA Leave

- If an employee is taking EFMLEA leave to care for a child whose school or place of care is closed, the employee must identify the name of the child being cared for, the name of the school or childcare provider that is closed or unavailable, and represent that no one else will be taking care of the child.

Other FMLA Qualifying Leave

All existing certification requirements under the federal FMLA remain in effect if an employee is taking leave for one of the existing qualifying reasons under the federal FMLA. For example, if an employee is taking leave beyond the two (2) weeks of EPSLA leave because the employee's medical condition for COVID-19-related reasons rises to the level of a serious health condition, the employee must continue to provide medical certifications under the federal FMLA as required by the Board.

Legal References:

Families First Coronavirus Response Act, Pub. L. 116-127 §§3102, 5102, 134 Stat. 178 (2020).

Paid Leave Under the Families First Coronavirus Response Act, 29 CFR § 826 (2020).

ADOPTED: October 13, 2020