

Employment Matters

1) What COVID-19 related federal leave options are available to school system employees, teachers, or staff?

UPDATED
7/28/21

The requirement that employers provide paid sick leave and expanded family and medical leave under the Families First Coronavirus Response Act (FFCRA) expired on Dec. 31, 2020. The American Rescue Plan Act of 2021 (ARPA) effectively extends the emergency paid sick leave of the FFCRA until September 30, 2021, allowing private employers to claim payroll tax credits for providing emergency paid sick leave to their employees on a voluntary basis. School districts should consult with their legal counsel regarding the applicability of ARPA's emergency leave provisions to their districts.

The Families First Coronavirus Response Act (FFCRA) Leave provides 2 types of paid leave.

- 1. Emergency Paid Sick Leave (E-PSL):** Up to 80 hours (2 weeks) of E-PSL may be granted to any eligible employee for one of a number of COVID-19 related reasons, including care for themselves because of COVID-19, care for another because of COVID-19, closure of a child's school/childcare, or inability to work because of a mandated shelter-in-place or isolation order.
- 2. Emergency FMLA (E-FMLA):** Employees may qualify for E-FMLA for school/childcare closure for up to 400 additional hours (10 weeks) if they have been employed for at least 30 days.

Local education agencies (LEAs), as employers, have the exclusive authority to make leave determinations in accordance with and subject to federal law and Department of Labor (DOL) guidance. The DOL has administrative authority over the FFCRA; thus, they should be looked to for interpretations of the statute. In addition, the Texas Association of School Boards (TASB) has provided several helpful documents explaining the implementation of the FFCRA in an LEA. The resources below from the DOL and TASB provide additional information.

DOL Compliance Documents:

- FFCRA Employee Rights [poster](#)
- [FAQ](#) on FFCRA leave
- [Temporary Rule: Paid Leave Under the Families First Coronavirus Response Act](#) (and additional DOL resources)

TASB Resources:

- TASB HR Services provided this [FFCRA Leave Administration Flowchart](#) that notes, among other things, that FFCRA leave is used before any accumulated state/local leave is used.

- TASB Legal Services' article [Personnel Provisions in the Families First Coronavirus Response Act](#) (pdf) summarizes the Emergency Paid Sick Leave and the Emergency Family Leave Expansion provisions of the Families First Coronavirus Response Act.
- TASB HR Services reviews [DOL Required Posters for Emergency Federal Leave](#).
- TASB HR Services has written [an article covering Emergency FMLA and Paid Leave Effective April 1, 2020](#) and guidance on [The Challenges of FFCRA Management](#).
- An [Employee Request Form for Emergency Federal Leave Now Available](#) from TASB HR Services, as well as guidance on [Verifying Employee Requests for FFCRA Leave](#).
- TASB HR Services answers questions regarding leave and other HR topics in [COVID-19 Frequently Asked Questions: Part 2](#) and [COVID-19 Frequently Asked Questions: Part 3](#).

2) What happens if a teacher resigns in lieu of accepting an in-person teaching assignment during the COVID-19 pandemic?

In the event a Chapter 21 certified employee resigns outside of the no-fault resignation window, certain provisions in rule may allow the resignation to occur with no impact on the educator's certificate. TASB has provided a comprehensive analysis of the legal provisions applicable to educators' resignations that can be found [here](#).