



## FMLA vs. FMLA for COVID-19 (EFMLA)

On March 18<sup>th</sup> Congress enacted and the President signed into law the Families First Coronavirus Response Act. This new law expanded the Family and Medical Leave Act (FMLA) to include leave for full- and part-time employees who are unable to work (or telework) because they must care for a son or daughter under 18 years of age because school or daycare is closed, or the child-care provider is unavailable, because a federal, state or local authority has declared an emergency due to the COVID-19 virus. Here is how this emergency FMLA leave (EFMLA) compares to the regular FMLA leave school districts are familiar with:

	<b>Regular FMLA Leave</b>	<b>EFMLA</b>
<b>Size of District</b>	Must employ at least 50 employees for an employee to be eligible for leave	Applies to all school districts
<b>Length employee must work for school district to be eligible</b>	12 months	30 days
<b>Hours employee must work immediately before leave</b>	1250 hours (Full-time teachers are presumed to work this amount.)	No minimum. Applies to part-time employees.
<b>Length of leave</b>	12 weeks total for both regular FMLA leave and EFMLA	12 weeks total for both regular FMLA leave and EFMLA
<b>Paid or unpaid?</b>	Unpaid. District should apply any accrued paid leave concurrently with FMLA leave.	First 10 days are unpaid, but the employee may elect to use any accrued leave provided by the district. The rest is paid at 2/3 the regular rate of pay, capped at \$200 a day or \$10,000 total. Districts allowing employees to use paid leave so that the last weeks are paid in full should consult with their attorney for tax and retirement implications.
<b>Health insurance benefits</b>	District required to maintain if the district provided benefits to the employee prior to the leave.	District required to maintain if the district provided benefits to the employee prior to the leave.

	<b>FMLA</b>	<b>EFMLA</b>
<b>Job security</b>	Employee is required to be returned to the same or a similar position after the leave.	Employee is required to be returned to the same or a similar position after the leave. However, if the district employs fewer than 25 employees, reinstatement is not required if the position no longer exists because of the health emergency and the district contacts the employee if an equivalent position later becomes available.
<b>Serious health condition of employee or son, daughter, spouse or parent.</b>	Yes	Not applicable
<b>For birth of a newborn son or daughter or for placement by adoption or foster care.</b>	Yes	Not applicable
<b>A qualifying exigency because son, daughter, spouse or parent is on active military duty.</b>	Yes	Not applicable
<b>To care for a covered service member with a serious illness or injury.</b>	Yes	Not applicable
<b>To care for a son or daughter because school or daycare are closed, or childcare provider is unavailable due to COVID-19</b>	Not applicable	Yes
<b>Implementation Date</b>	Implemented for years	April 1, 2020
<b>Expiration date</b>	None	December 31, 2020