

What Employers Need to Know for April 1 About the Families First Coronavirus Response Act

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The Department Of Labor (DOL) has issued compliance assistance to employers regarding their responsibilities under the Families First Coronavirus Response Act (FFCRA).

Importantly, the DOL has stated that the effective date of the FFCRA is April 1, 2020. This means that employers will have to provide employees with Emergency Paid Sick Leave and Emergency Family and Medical Leave as provided for in the Act by this date. This is a slight variance from other guidance and the law, which suggested that employers would have until April 2, 2020 to implement the Act's provisions. The requirements, however, are not retroactive. Meaning, an employer is not required to provide an employee with paid benefits for leave taken prior to April 1, 2020.

So, what should employers do between now and April 1? We suggest starting with these three things:

- Verify your employee count to determine if you must comply with these laws or if you may qualify for an exemption.
- Review your employee handbook to assess what PTO you currently offer and how that will be impacted by these changes. You will also need to update your handbook and notify your employees regarding their rights under the FFCRA.
- Determine if layoffs or furloughs may be necessary and properly document these decisions highlighting any economic impact.

The DOL issued guidance on how to count employees for determining the 500 employee threshold. Employers should include employees on leave; temporary employees who are jointly employed (regardless of whether the jointly-employed employees are on your payroll); and day laborers supplied by a temporary agency (regardless of whether you are the temporary agency or the client firm if there is a continuing employment relationship). Where a corporation has an ownership interest in another corporation, the two corporations are separate employers for the purposes of counting employees, unless they are considered joint employers under the Fair Labor Standards Act.

Note, an employee may be eligible for both Emergency Paid Sick Leave and Emergency Family and Medical Leave. The Emergency Paid Sick Leave Act provides for an initial two weeks of paid leave. This period thus covers the first ten workdays of expanded Family and Medical Leave, which are otherwise unpaid under the Emergency

and Family Medical Leave Expansion Act unless the employee chooses to use PTO. After the first ten workdays have elapsed, an employee will receive two-thirds of their regular rate of pay.

The DOL will be implementing regulations regarding the FFCRA and small businesses. However, those regulations are not anticipated until April.

If you have any questions, please do not hesitate to contact the author or any member of the Labor and Employment team or visit our [COVID-19 Resource Center](#).

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