

*The Orange County Bar Association
Covid-19 Task Force Presents*

OCBA Webinar: Updates on The Family First Bill, the CARES Act, & Other Available Resources

Friday, April 3, 2020



Speakers

Neil Pedersen, Esq.
Pedersen Law APLC

Andrea W.S. Paris, Esq.
Law Offices of Andrea W.S. Paris

Gregory Dill
SBA Financing Specialist

Melissa A. Petrofsky, Esq. (Moderator)
The Petrofsky Law Firm

Speaker Biographies



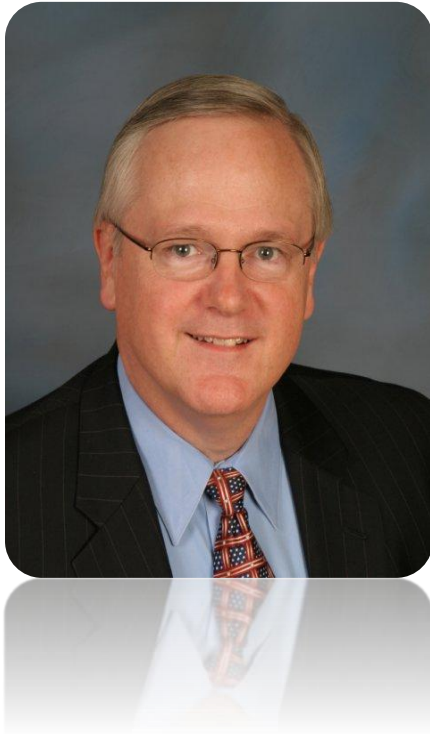
PEDERSEN LAW

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PEDERSEN LAW

A Professional Law Corporation

*Employment Discrimination, Harassment, Retaliation
Wrongful Termination • Employee Privacy*



Pedersen Law APC is an AV-rated employee rights law firm providing legal services in the areas of employment discrimination, harassment and retaliation, including wrongful termination for employees against their employers.

NEIL PEDERSEN

Neil Pedersen is the principal of Pedersen Law, an Orange County litigation firm. The firm is dedicated to representing employees in employment litigation.

Neil graduated magna cum laude from Western State College of Law in 1988 as co-Valedictorian and Editor-in-Chief of the Law Review. He was inducted into that school's Alumni Hall of Fame in 2010.

He served as executive committee member and Chair of the OCBA's Insurance Law and Solo & Small Firm Practitioner sections. He was also an active member of the Executive Committee of the

California Lawyers Association Law Practice Management & Technology Section for 8 years.

Neil has been an adjunct professor at Western State College of Law teaching Employment Law. He also co-created and taught the school's first Law Practice Management course for 8 years.

Neil is a prolific author and regular lecturer on subjects of employment law, law practice management, and general litigation. He has been involved in the procurement of several significant six and seven-figure verdicts and settlements for his clients over the years.

Neil has been selected as a Top Attorney in Southern California for the last nine years, has repeatedly been named one of the Top Employment Law Attorneys in Orange County, and has been identified as a Southern California Super Lawyer from 2015 to the present. In 2016, the State Bar Solo and Small Firm Section named Neil as its Attorney of the Year.

In 2019, Neil was selected by the OCBA as its Harmon Scoville Award honoree for a career that exemplifies the highest standards of the legal profession and for his significant contributions to the Orange County Bar Association and his championing of our constitutional system of justice.

Neil is married, has three children, seven grandchildren, two great-grandchildren, a dog and a cat.

ANDREA W. S. PARIS

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BAR ADMISSIONS

California Supreme Court, 2007

United States District Courts throughout California

LEGAL EXPERIENCE

Andrea Paris Law, PC (previously Law Office of Andrea W. S. Paris), Newport Beach, California

CEO/Managing Attorney, April 2011 – Present

- Represent small and medium-size businesses and individuals on issues related to California and federal employment laws, including but not limited to disability and pregnancy leave, employee classification, discrimination, disciplinary procedures, wage and hour laws, retaliation, severance negotiations, PAGA, and wrongful termination.
- Provide employers with risk management documents such as employee handbooks, offer letters, assignment of intellectual property, job descriptions, and independent contractor agreements.
- Represent businesses and individuals in civil litigation on claims related to breach of contract, fraud, intellectual property, trade secret misappropriation, premises liability, commercial disputes, and appellate advocacy including writs and appeals before the California Court of Appeal.

Noland, Hamerly, Etienne & Hoss, Salinas, California

Associate Attorney, November 2010 – April 2011

- Provided legal advice and civil litigation services to public agencies, businesses, and individuals on issues related to employment, contract, personal injury, and commercial disputes.
- Handled all pre-trial stages of civil litigation, including client intake, drafting and responding to pleadings, discovery, dispositive motions, mediations, pre-trial motions, and trial preparation.
- Provided state mandated ethics training to local public agency officials and sexual harassment prevention training to clients' supervisory employees.
- Advised public entity clients on issues such as severance pay, filling board vacancies, and responding to Water Supply Assessment requests.

Lynberg & Watkins, APC, Orange, California

Associate Attorney, April 2008 – April 2010

- Defended school districts, state universities, and corporations in state and federal lawsuits involving torts, premises liability, trade secret, unfair competition, and employment disputes.
- Prepared successful summary judgment motion that resulted in the settlement of a multi-million dollar premises liability suit against public entity client for a waiver of costs; Worked closely with partner in the negotiation process.

California Court of Appeal, Fourth District, Division Two, Riverside, California

Judicial Extern for Associate Justice Thomas E. Hollenhorst, August 2005 – December 2005

- Assigned the responsibility of drafting the court's tentative opinions, including a recommended disposition for criminal appeals on issues such as California's sentencing rules, striking prior convictions, and Fourth Amendment search and seizure.

AWARDS/PUBLICATIONS/PRESENTATIONS

- Andrea Paris Law Blog - www.andreaparislaw.com/blog
- Webinar - AB5 and California Independent Contractors (January 2020)
- Epic Systems Corp. v. Lewis: Class Waivers in Arbitration Agreements and Why Even Non-Employment Lawyers Should Care, by Andrea W. S. Paris, in Orange County Lawyer Magazine, October 2018, p.44
- 2017 Rising Stars Super Lawyers Award, Civil Litigation Defense
- Emoji and Deciphering Intent in the Digital Age, by Tanya Kiatkulpiboone and Andrea Paris, in Orange County Lawyer Magazine, June 2017, Vol. 59 No.6 on page 42.
- Help! What Are My (Immediate) Defenses to a Federal Trade Secret Claim?, by Lily Li and Andrea Paris, in Orange County Lawyer Magazine, September 2016, Vol. 58 No.9 on page 52.

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- Your Workplace in 2017: The ever-changing landscape of employment laws - Orange County Paralegal Association (2017)

EDUCATION

Chapman University School of Law, Orange, California

Juris Doctor, May 2007

- Received highest grade in the course: Legal Research & Writing I, Legal Research & Writing II, and Corporations
- Member: Moot Court Board, Mock Trial Team, and Alternative Dispute Resolution Board
- Competed in the Phillip C. Jessup International Law Moot Court Regional Competition

Occidental College, Los Angeles, CA

Bachelor of Arts in Diplomacy and World Affairs, May 2001

- Graduated with Honors after successful completion of a comprehensive examination in major and submission of thesis paper on accountability trials and the transition to democracy.
- Academic Merit Scholarship Recipient, 1997-2001
- Intern at The United Nations Secretariat, Office of the Special Advisor on Gender Issues, Fall 2000
- Studied abroad in Madrid, Spain, Spring 2000

SKILLS/LANGUAGES/INTERESTS

Bi-lingual in Thai. Basic Spanish. Released three Thai pop albums. Avid golfer. Traveled to 5 continents.

Greg Dill, CCIM – *The SBA Lender*
Commercial Mortgage Strategist
VP of Commercial Real Estate and SBA Lending at Union Bank
Irvine, CA

Greg Dill specializes in helping business owners stop paying rent by providing low down payment yet long-term financing for the acquisition of owner-occupied commercial real estate in amounts ranging from \$200K to \$20MM. Both SBA and conventional products are utilized to aid entrepreneurs in achieving what may be the largest single transaction of their entire career. Additionally, Mr. Dill assists with financing business acquisitions and partner buyouts in the \$500K to \$5MM range.

Mr. Dill holds a bachelor's degree from Duke University and earned his master's degree in engineering through the Massachusetts Institute of Technology International Program. Mr. Dill is a licensed real estate broker in the state of California and possesses the coveted CCIM designation. In addition to CCIM (where he sits on the board of the local chapter), Mr. Dill is actively involved in such commercial real estate and business organizations as NAIOP, SIOR, NAGGL, CREPOC, RCAOC, and LBCREC, among others. Mr. Dill lived and worked abroad for six years and is fluent in Spanish, which is the primary language spoken at home with his family.



Melissa Petrofsky, Esq.

Employee Rights Attorney

Employment law has been Melissa's area of expertise for nearly a decade. Whether representing a sexual harassment victim, a whistleblower, or the victim of racial profiling, or an employer wrongfully accused of the same atrocities, Melissa uses her wisdom, experience, and empathy to avidly pursue her clients' rights.

She helps employers navigate through the web of workplace laws and rules, such as contractor classification, proper payment of overtime and other wage and hour issues, sexual harassment training, or leaves of absence (to name a few). She also provides advice and counsel to businesses in applying fair and equitable employee discipline procedures, while minimizing the risk of litigation. She has prevailed against attacks on the pleading, discovery motions, and dispositive motions. In fact, she has never lost a dispositive motion before any judge in California, in either state or federal court. Her sterling track record is due to her savvy approach: she doesn't take on a fight that she can't win.

She has settled cases before every major mediation service provider and every arbitration service. She is also on a first-name basis with many of southern California's most acclaimed employment law mediators, including retired judges. One of Melissa's guiding principles is to find the right mediator for each case, which can require months of negotiation with the other side. What Melissa provides every client is the tailored, impassioned advocacy she would provide to a family member.

Melissa's guiding principle has always been to empower her clients by using her legal skills to advocate for truth and justice. She has represented a multitude of small employers, including an event services organization, a medical research company, a medical group, and a music school. Melissa approaches every case with zealous representation -- she understands that every case is a person's life or business.

She has successfully managed a robust caseload with as many as 50+ matters simultaneously. However, her preference is to keep her caseload smaller, in order to provide boutique-style legal services.

Seminar Materials



The Small Business Owner's Guide to the CARES Act

The programs and initiatives in the *Coronavirus Aid, Relief, and Economic Security (CARES) Act* that was just passed by Congress are intended to assist business owners with whatever needs they have right now. When implemented, there will be many new resources available for small businesses, as well as certain non-profits and other employers. This guide provides information about the major programs and initiatives that will soon be available from the Small Business Administration (SBA) to address these needs, as well as some additional tax provisions that are outside the scope of SBA.

To keep up to date on when these programs become available, please stay in contact with your local Small Business Administration (SBA) District Office, which you can locate [here](#).

Struggling to get started? The following questions might help point you in the right direction. Do you need:

- **Capital to cover the cost of retaining employees?** Then the [Paycheck Protection Program](#) might be right for you.
- **A quick infusion of a smaller amount of cash to cover you right now?** You might want to look into an [Emergency Economic Injury Grant](#).
- **To ease your fears about keeping up with payments on your current or potential SBA loan?** The [Small Business Debt Relief Program](#) could help.
- **Just some quality, free counseling to help you navigate this uncertain economic time?** The [resource partners](#) might be your best bet.

Already know what resources you're looking for? The table of contents can direct you to more information about the program or assistance product you need.

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Paycheck Protection Program (PPP) Loans

The program would provide cash-flow assistance through 100 percent federally guaranteed loans to employers who maintain their payroll during this emergency. If employers maintain their payroll, the loans would be forgiven, which would help workers remain employed, as well as help affected small businesses and our economy snap-back quicker after the crisis. PPP has a host of attractive features, such as forgiveness of up to 8 weeks of payroll based on employee retention and salary levels, no SBA fees, and at least six months of deferral with maximum deferrals of up to a year. Small businesses and other eligible entities will be able to apply if they were harmed by COVID-19 between February 15, 2020 and June 30, 2020. This program would be retroactive to February 15, 2020, in order to help bring workers who may have already been laid off back onto payrolls. **Loans are available through June 30, 2020.**

FREQUENTLY ASKED QUESTIONS

QUESTION: What types of businesses and entities are eligible for a PPP loan?

Answer:

- Businesses and entities must have been in operation on February 15, 2020.
- Small business concerns, as well as any business concern, a 501(c)(3) nonprofit organization, a 501(c)(19) veterans organization, or Tribal business concern described in section 31(b)(2)(C) that has fewer than 500 employees, or the applicable [size standard](#) in number of employees for the North American Industry Classification System (NAICS) industry as provided by SBA, if higher.
- Individuals who operate a sole proprietorship or as an independent contractor and eligible self-employed individuals.
- Any business concern that employs not more than 500 employees per physical location of the business concern and that is assigned a NAICS code beginning with 72, for which the affiliation rules are waived.
- Affiliation rules are also waived for any business concern operating as a franchise that is assigned a franchise identifier code by the Administration, and company that receives funding through a Small Business Investment Company.

QUESTION: What are affiliation rules?

Answer: Affiliation rules become important when SBA is deciding whether a business's affiliations preclude them from being considered "small." Generally, affiliation exists when one business controls or has the power to control another or when a third party (or parties) controls or has the power to control both businesses. Please see [this resource](#) for more on these rules and how they can impact your business's eligibility.

QUESTION: What types of non-profits are eligible?

Answer: In general, 501(c)(3) and 501(c)(19) non-profits with 500 employees or fewer as most non-profit SBA size standards are based on revenue, not employee number. You can check [here](#).

<p>QUESTION: How is the loan size determined?</p> <p>Answer: Depending on your business's situation, the loan size will be calculated in different ways (see below). The maximum loan size is always \$10 million.</p> <ul style="list-style-type: none"> • If you were in business February 15, 2019 – June 30, 2019: Your max loan is equal to 250 percent of your average monthly payroll costs during that time period. If your business employs seasonal workers, you can opt to choose March 1, 2019 as your time period start date. • If you were <u>not</u> in business between February 15, 2019 – June 30, 2019: Your max loan is equal to 250 percent of your average monthly payroll costs between January 1, 2020 and February 29, 2020. • If you took out an Economic Injury Disaster Loan (EIDL) between February 15, 2020 and June 30, 2020 and you want to refinance that loan into a PPP loan, you would add the outstanding loan amount to the payroll sum.
<p>QUESTION: What costs are eligible for payroll?</p> <p>Answer:</p> <ul style="list-style-type: none"> • Compensation (salary, wage, commission, or similar compensation, payment of cash tip or equivalent) • Payment for vacation, parental, family, medical, or sick leave • Allowance for dismissal or separation • Payment required for the provisions of group health care benefits, including insurance premiums • Payment of any retirement benefit • Payment of State or local tax assessed on the compensation of employees
<p>QUESTION: What costs are <u>not</u> eligible for payroll?</p> <p>Answer:</p> <ul style="list-style-type: none"> • Employee/owner compensation over \$100,000 • Taxes imposed or withheld under chapters 21, 22, and 24 of the IRS code • Compensation of employees whose principal place of residence is outside of the U.S. • Qualified sick and family leave for which a credit is allowed under sections 7001 and 7003 of the Families First Coronavirus Response Act
<p>QUESTION: What are allowable uses of loan proceeds?</p> <p>Answer:</p> <ul style="list-style-type: none"> • Payroll costs (as noted above) • Costs related to the continuation of group health care benefits during periods of paid sick, medical, or family leave, and insurance premiums • Employee salaries, commissions, or similar compensations (see exclusions above) • Payments of interest on any mortgage obligation (which shall not include any prepayment of or payment of principal on a mortgage obligation) • Rent (including rent under a lease agreement) • Utilities • Interest on any other debt obligations that were incurred before the covered period

QUESTION:	What are the loan term, interest rate, and fees?
Answer:	For any amounts not forgiven, the maximum term is 10 years, the maximum interest rate is 4 percent, zero loan fees, zero prepayment fee (SBA will establish application fees caps for lenders that charge).
QUESTION:	How is the forgiveness amount calculated?
Answer:	<p>Forgiveness on a covered loan is equal to the sum of the following payroll costs incurred during the covered 8 week period compared to the previous year or time period, proportionate to maintaining employees and wages (excluding compensation over \$100,000):</p> <ul style="list-style-type: none"> • Payroll costs plus any payment of interest on any covered mortgage obligation (not including any prepayment or payment of principal on a covered mortgage obligation) plus any payment on any covered rent obligation plus and any covered utility payment.
QUESTION:	How do I get forgiveness on my PPP loan?
Answer:	<p>You must apply through your lender for forgiveness on your loan. In this application, you must include:</p> <ul style="list-style-type: none"> • Documentation verifying the number of employees on payroll and pay rates, including IRS payroll tax filings and State income, payroll and unemployment insurance filings. • Documentation verifying payments on covered mortgage obligations, lease obligations, and utilities. • Certification from a representative of your business or organization that is authorized to certify that the documentation provided is true and that the amount that is being forgiven was used in accordance with the program's guidelines for use.
QUESTION:	What happens after the forgiveness period?
Answer:	Any loan amounts not forgiven are carried forward as an ongoing loan with max terms of 10 years, at a maximum interest rate of 4%. Principal and interest will continue to be deferred, for a total of 6 months to a year after disbursement of the loan. The clock does not start again.
QUESTION:	Can I get more than one PPP loan?
Answer:	No, an entity is limited to one PPP loan. Each loan will be registered under a Taxpayer Identification Number at SBA to prevent multiple loans to the same entity.
QUESTION:	Where should I go to get a PPP loan from?
Answer:	All current SBA 7(a) lenders (see more about 7(a) here) are eligible lenders for PPP. The Department of Treasury will also be in charge of authorizing new lenders, including non-bank lenders, to help meet the needs of small business owners.

QUESTION: How does the PPP loan coordinate with SBA's existing loans?

Answer: Borrowers may apply for PPP loans and other SBA financial assistance, including Economic Injury Disaster Loans (EIDLs), 7(a) loans, 504 loans, and microloans, and also receive investment capital from [Small Business Investment Corporations](#) (SBICs). However, you cannot use your PPP loan for the same purpose as your other SBA loan(s). For example, if you use your PPP to cover payroll for the 8-week covered period, you cannot use a different SBA loan product for payroll for those same costs in that period, although you could use it for payroll not during that period or for different workers.

QUESTION: How does the PPP loan work with the temporary Emergency Economic Injury Grants and the Small Business Debt Relief program?

Answer: [Emergency Economic Injury Grant](#) and Economic Injury Disaster Loan (EIDL) recipients and those who receive loan payment relief through the [Small Business Debt Relief Program](#) may apply for and take out a PPP loan as long as there is no duplication in the uses of funds. Refer to those sections for more information.

Small Business Debt Relief Program

This program will provide immediate relief to small businesses with non-disaster SBA loans, in particular 7(a), 504, and microloans. Under it, SBA will cover all loan payments on these SBA loans, including principal, interest, and fees, for six months. This relief will also be available to new borrowers who take out loans within six months of the President signing the bill into law.

FREQUENTLY ASKED QUESTIONS	
QUESTION:	Which SBA loans are eligible for debt relief under this program?
Answer:	7(a) loans not made under the Paycheck Protection Program (PPP), 504 loans, and microloans. Disaster loans are not eligible (see p. 7 for more information on these).
QUESTION:	How does debt relief under this program work with a PPP loan?
Answer:	Borrowers may separately apply for and take out a PPP loan, but debt relief under this program will not apply to a PPP loan.
QUESTION:	How do I know if I'm eligible for a 7(a), 504, or microloan?
Answer:	In general, businesses must meet size standards , be based in the U.S., be able to repay, and have a sound business purpose. To check whether your business is considered small, you will need your business's 6-digit North American Industry Classification System (NAICS) code and 3-year average annual revenue. Each program has different requirements, see https://www.sba.gov/funding-programs/loans for more details.
QUESTION:	What is a 7(a) loan and how do I apply?
Answer:	7(a) loans are an affordable loan product of up to \$5 million for borrowers who lack credit elsewhere and need access to versatile financing, providing short-term or long-term working capital and to purchase an existing business, refinance current business debt, or purchase furniture, fixtures and supplies. In the program, banks share a portion of the risk of the loan with SBA. There are many different types of 7(a) loans, you can visit this site to find the one that's best for you. You apply for a 7(a) loan with a bank or a mission-based lender. SBA has a free referral service tool called Lender Match to help find a lender near you.
QUESTION:	What is a 504 loan and how do I apply?
Answer:	The 504 Loan Program provides loans of up to \$5.5 million to approved small businesses with long-term, fixed-rate financing used to acquire fixed assets for expansion or modernization. It is a good option if you need to purchase real estate, buildings, and machinery. You apply through a Certified Development Company, which is a nonprofit corporation that promotes economic development. SBA has a free referral service tool called Lender Match to help find a lender near you.
QUESTION:	What is a microloan and how do I apply?
Answer:	The Microloan Program provides loans up to \$50,000 to help small businesses and certain not-for-profit childcare centers to start up and expand. The average microloan is about \$13,000. These loans are delivered through mission-based lenders who are also able to provide business counseling. SBA has a free referral service tool called Lender Match to help find a microlender near you.
QUESTION:	I am unfamiliar with SBA loans, can anyone help me apply?
Answer:	Yes, SBA resource partners are available to help guide you through the loan application process. You can find your nearest Small Business Development Center (SBDC) or Women's Business Center here .

Economic Injury Disaster Loans & Emergency Economic Injury Grants

These grants provide an emergency advance of up to \$10,000 to small businesses and private non-profits harmed by COVID-19 within three days of applying for an SBA Economic Injury Disaster Loan (EIDL). To access the advance, you first apply for an EIDL and then request the advance. **The advance does not need to be repaid under any circumstance**, and may be used to keep employees on payroll, to pay for sick leave, meet increased production costs due to supply chain disruptions, or pay business obligations, including debts, rent and mortgage payments.

FREQUENTLY ASKED QUESTIONS	
QUESTION:	Are businesses and private non-profits in my state eligible for an EIDL related to COVID-19?
Answer:	Yes, those suffering substantial economic injury in all 50 states, DC, and the territories may apply for an EIDL.
QUESTION:	What is an EIDL and what is it used for?
Answer:	EIDLs are lower interest loans of up to \$2 million, with principal and interest deferment at the Administrator's discretion, that are available to pay for expenses that could have been met had the disaster not occurred, including payroll and other operating expenses.
QUESTION:	Who is eligible for an EIDL?
Answer:	<p>Those eligible are the following with 500 or fewer employees:</p> <ul style="list-style-type: none"> • Sole proprietorships, with or without employees • Independent contractors • Cooperatives and employee owned businesses • Tribal small businesses <p>Small business concerns and small agricultural cooperatives that meet the applicable size standard for SBA are also eligible, as well as most private non-profits of any size. See below for more info on size standards.</p>
QUESTION:	My private non-profit is not a 501(c)(3). Is it still eligible for an EIDL and a grant?
Answer:	Yes, if you are a private non-profit with an effective ruling letter from the IRS, granting tax exemption under sections 501(c), (d), or (e) of the Internal Revenue Code of 1954, <u>or</u> if you can provide satisfactory evidence from the State that the non-revenue producing organization or entity is a non-profit one organized or doing business under State law. However, a recipient that is principally engaged in teaching, instructing, counseling, or indoctrinating religion or religious beliefs, whether in a religious or secular setting, or primarily engaged in political or lobbying activities is not eligible to receive an EIDL. If you are uncertain whether you qualify, please consult with legal counsel to determine whether your organization meets program criteria.
QUESTION:	Who is eligible for an Emergency Economic Injury Grant?
Answer:	Those eligible for an EIDL and who have been in operation since January 31, 2020 , when the public health crisis was announced.

QUESTION:	How long are Emergency Economic Injury Grants available?
Answer:	January 31, 2020 – December 31, 2020. The grants are backdated to January 31, 2020 to allow those who have already applied for EIDLs to be eligible to also receive a grant.
QUESTION:	If I get an EIDL and/or an Emergency Economic Injury Grant, can I get a PPP loan?
Answer:	Whether you've already received an EIDL unrelated to COVID-19 or you receive a COVID-19 related EIDL and/or Emergency Grant between January 31, 2020 and June 30, 2020, you may also apply for a PPP loan. If you ultimately receive a PPP loan or refinance an EIDL into a PPP loan, any advance amount received under the Emergency Economic Injury Grant Program would be subtracted from the amount forgiven in the PPP. However, you cannot use your EIDL for the same purpose as your PPP loan. For example, if you use your EIDL to cover payroll for certain workers in April, you cannot use PPP for payroll for those same workers in April, although you could use it for payroll in March or for different workers in April.
QUESTION:	How do I know if my business is a small business?
Answer:	Please visit https://www.sba.gov/size-standards/ to find out if your business meets SBA's small business size standards. You will need the 6-digit North American Industry Classification Code for your business and your business's 3-year average annual revenue.
QUESTION:	How do I apply for an economic injury disaster loan?
Answer:	To apply for an EIDL online, please visit https://disasterloan.sba.gov/ela/ . Your SBA District Office is an important resource when applying for SBA assistance.
QUESTION:	I am unfamiliar with the EIDL process, can anyone help me apply?
Answer:	Yes, SBA resource partners are available to help guide you through the EIDL application process. You can find the nearest Small Business Development Center (SBDC), Women's Business Center, or SCORE mentorship chapter at https://www.sba.gov/local-assistance/find/ .

Counseling & Training

If you, like many small business owners, need a business counselor to help guide you through this uncertain time, you can turn to your local Small Business Development Center (SBDC), Women's Business Center (WBC), or SCORE mentorship chapter. These resource partners, and the associations that represent them, will receive additional funds to expand their reach and better support small business owners with counseling and up-to-date information regarding COVID-19. There will soon be a joint platform that consolidates information and resources related to COVID-19 in order to provide consistent, timely information to small businesses. To find a local resource partner, visit <https://www.sba.gov/local-assistance/find/>.

In addition, the Minority Business Development Agency's Business Centers (MBDCs), which cater to minority business enterprises of all sizes, will also receive funding to hire staff and provide programming to help their clients respond to COVID-19. Not every state has a MBDC. To find out if there is one that services your area, visit [this site](#).

FREQUENTLY ASKED QUESTIONS

QUESTION: Do I have to pay for counseling and training through SBDCs, WBCs, and MBDCs?

Answer: Counseling is free and training is low-cost with these partners. The additional funds that Congress provided will help keep this possible. Mentorship through SCORE is always free.

QUESTION: What is a SBDC?

Answer: SBDCs are a national network of nearly 1,000 centers that are located at leading universities, colleges, state economic development agencies and private partners. They provide counseling and training to new and existing businesses. Each state has a lead center that coordinates services specifically for that state, which you can find by clicking the link above. To find out more about SBDCs, visit <https://americassbdc.org/about-us/>.

QUESTION: What is a WBC; is it only for women?

Answer: WBCs are a national network of more than 100 centers that offer one-on-one counseling, training, networking, workshops, technical assistance and mentoring to entrepreneurs on numerous business development topics. In addition to women, WBCs are mandated to serve the needs of underserved entrepreneurs, including low-income entrepreneurs. They often offer flexible hours to meet the needs of their diverse clientele. To find out more about WBCs, visit <https://www.awbc.org/>.

QUESTION: What is SCORE?

Answer: SCORE provides free, confidential business advice through our volunteer network of 10,000+ business experts. You can meet with a mentor online. Find out more [here](#).

QUESTION: Who do MBDCs serve?

Answer: MBDCs are a good option for minority-owned businesses (including those owned by Black, Hispanic, Asian American/Pacific Islander, and American Indian business owners), especially those seeking to penetrate new markets — domestic & global — and grow in size and scale.

Contracting

If you are a government contractor, there are a number of ways that Congress has provided relief and protection for your business. Agencies will be able to modify terms and conditions of a contract and to reimburse contractors at a billing rate of up to 40 hours per week of any paid leave, including sick leave. The contractors eligible are those whose employees or subcontractors cannot perform work on site and cannot telework due to federal facilities closing because of COVID-19.

If you need additional assistance, please reach out to your [local](#) Small Business Development Center, Women's Business Center, SCORE chapter, or SBA District Office. You should also work with your agency's contracting officer, as well as the agency's Office of Small and Disadvantaged Business Utilization (OSDBU).

Small Business Tax Provisions

Employee Retention Credit for Employers Subject to Closure or Experiencing Economic Hardship

This provision would provide a refundable payroll tax credit for 50 percent of wages paid by eligible employers to certain employees during the COVID-19 crisis. The credit is available to employers, including non-profits, whose operations have been fully or partially suspended as a result of a government order limiting commerce, travel or group meetings. The credit is also provided to employers who have experienced a greater than 50 percent reduction in quarterly receipts, measured on a year-over-year basis.

Wages of employees who are furloughed or face reduced hours as a result of their employer's closure or economic hardship are eligible for the credit. For employers with 100 or fewer full-time employees, all employee wages are eligible, regardless of whether an employee is furloughed. The credit is provided for wages and compensation, including health benefits, and is provided for the first \$10,000 in wages and compensation paid by the employer to an eligible employee. Wages do not include those taken into account for purposes of the payroll credits for required paid sick leave or required paid family leave, nor for wages taken into account for the employer credit for paid family and medical leave (IRC sec. 45S).

- **The credit is not available to employers receiving assistance through the [Paycheck Protection Program](#). The credit is provided through December 31, 2020.**

Delay of Payment of Employer Payroll Taxes

This provision would allow taxpayers to defer paying the employer portion of certain payroll taxes through the end of 2020, with all 2020 deferred amounts due in two equal installments, one at the end of 2021, the other at the end of 2022. Payroll taxes that can be deferred include the employer portion of FICA taxes, the employer and employee representative portion of Railroad Retirement taxes (that are attributable to the employer FICA rate), and half of SECA tax liability.

- **Deferral is not provided to employers receiving assistance through the [Paycheck Protection Program](#).**

On March 19, 2020, Governor Newsom issued Executive Order N-33-20 directing all residents immediately to heed current State public health directives to stay home, except as needed to maintain continuity of operations of essential critical infrastructure sectors and additional sectors as the State Public Health Officer may designate as critical to protect health and well-being of all Californians.

In accordance with this order, the State Public Health Officer has designated the following list of “Essential Critical Infrastructure Workers” to help state, local, tribal, and industry partners as they work to protect communities, while ensuring continuity of functions critical to public health and safety, as well as economic and national security.

HEALTHCARE / PUBLIC HEALTH

Sector Profile

The Healthcare and Public Health (HPH) Sector is large, diverse, and open, spanning both the public and private sectors. It includes publicly accessible healthcare facilities, research centers, suppliers, manufacturers, and other physical assets and vast, complex public-private information technology systems required for care delivery and to support the rapid, secure transmission and storage of large amounts of HPH data.

Essential Workforce

- Workers providing COVID-19 testing; Workers that perform critical clinical research needed for COVID-19 response.
- Health care providers and caregivers (e.g., physicians, dentists, psychologists, mid-level practitioners, nurses and assistants, infection control and quality assurance personnel, pharmacists, physical and occupational therapists and assistants, social workers, speech pathologists and diagnostic and therapeutic technicians and technologists).
- Hospital and laboratory personnel (including accounting, administrative, admitting and discharge, engineering, epidemiological, source plasma and blood donation, food service, housekeeping, medical records, information technology and operational technology, nutritionists, sanitarians, respiratory therapists, etc.).
- Workers in other medical facilities (including Ambulatory Health and Surgical, Blood Banks, Clinics, Community Mental Health, Comprehensive Outpatient rehabilitation, End Stage Renal Disease, Health Departments, Home Health care, Hospices, Hospitals, Long Term Care, Organ Pharmacies, Procurement Organizations, Psychiatric, Residential, Rural Health Clinics and Federally Qualified Health Centers, cannabis retailers).
- Manufacturers, technicians, logistics and warehouse operators, and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, [personal care/hygiene products](#), and tissue and paper towel products.

- Public health / community health workers, including those who compile, model, analyze and communicate public health information.
- Behavioral health workers (including mental and substance use disorder) responsible for coordination, outreach, engagement, and treatment to individuals in need of mental health and/or substance use disorder services.
- Blood and plasma donors and the employees of the organizations that operate and manage related activities.
- Workers that manage health plans, billing, and health information, who cannot practically work remotely.
- Workers who conduct community-based public health functions, conducting epidemiologic surveillance, compiling, analyzing and communicating public health information, who cannot practically work remotely.
- Workers who provide support to vulnerable populations to ensure their health and well-being including family care providers
- Workers performing cybersecurity functions at healthcare and public health facilities, who cannot practically work remotely.
- Workers conducting research critical to COVID-19 response.
- Workers performing security, incident management, and emergency operations functions at or on behalf of healthcare entities including healthcare coalitions, who cannot practically work remotely.
- Workers who support food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, such as those residing in shelters.
- Pharmacy employees necessary for filling prescriptions.
- Workers performing mortuary services, including funeral homes, crematoriums, and cemetery workers.
- Workers who coordinate with other organizations to ensure the proper recovery, handling, identification, transportation, tracking, storage, and disposal of human remains and personal effects; certify cause of death; and facilitate access to behavioral health services to the family members, responders, and survivors of an incident.
- Workers supporting veterinary hospitals and clinics

EMERGENCY SERVICES SECTOR

Sector Profile

The Emergency Services Sector (ESS) is a community of highly-skilled, trained personnel, along with the physical and cyber resources, that provide a wide range of prevention, preparedness, response, and recovery services during both day-to-day operations and incident response. The ESS includes geographically distributed facilities and equipment in both paid and volunteer capacities organized primarily at the federal, state, local, tribal, and territorial levels of government, such as city police departments and fire stations, county sheriff's offices, Department of Defense police and fire departments, and town public works departments. The ESS also includes private sector resources, such

as industrial fire departments, private security organizations, and private emergency medical services providers.

Essential Workforce - Law Enforcement, Public Safety and First Responders

- Including front line and management, personnel include emergency management, law enforcement, Emergency Management Systems, fire, and corrections, search and rescue, tactical teams including maritime, aviation, and canine units.
- Emergency Medical Technicians
- Public Safety Answering Points and 911 call center employees
- Fusion Center employees
- Fire Mitigation Activities
- Hazardous material responders and hazardous devices teams, from government and the private sector.
- Workers – including contracted vendors -- who maintain digital systems infrastructure supporting law enforcement and emergency service operations.
- Private security, private fire departments, and private emergency medical services personnel.
- County workers responding to abuse and neglect of children, elders and dependent adults.
- [Animal control officers and humane officers](#)

Essential Workforce - Public Works

- Workers who support the operation, inspection, and maintenance of essential dams, locks and levees
- Workers who support the operation, inspection, and maintenance of essential public works facilities and operations, including bridges, water and sewer main breaks, fleet maintenance personnel, construction of critical or strategic infrastructure, [construction material suppliers](#), traffic signal maintenance, emergency location services for buried utilities, maintenance of digital systems infrastructure supporting public works operations, and other emergent issues
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences.
- Support, such as road and line clearing, to ensure the availability of needed facilities, transportation, energy and communications Support to ensure the effective removal, storage, and disposal of residential and commercial solid waste and hazardous waste.

FOOD AND AGRICULTURE

Sector Profile

The Food and Agricultural (FA) Sector is composed of complex production, processing, and delivery systems and has the capacity to feed people and animals both within and beyond the boundaries of the United States. Beyond domestic food production, the FA Sector also imports many ingredients and finished products, leading to a complex web of growers, processors, suppliers, transporters, distributors, and consumers. This sectors is critical to maintaining and securing our food supply.

Essential Workforce

- Workers supporting groceries, pharmacies, and other retail that sells food and beverage products, including but not limited to Grocery stores, Corner stores and convenience stores, including liquor stores that sell food, Farmers' markets, Food banks, Farm and produce stands, Supermarkets, Similar food retail establishments, Big box stores that sell groceries and essentials
- Restaurant carry-out and quick serve food operations – including food preparation, carry-out and delivery food employees
- Food manufacturer employees and their supplier employees—to include those employed in food processing (packers, meat processing, cheese plants, milk plants, produce, etc.) facilities; livestock, poultry, seafood slaughter facilities; pet and animal feed processing facilities; human food facilities producing by-products for animal food; beverage production facilities; and the production of food packaging
- Farm workers to include those employed in animal food, feed, and ingredient production, packaging, and distribution; manufacturing, packaging, and distribution of veterinary drugs; truck delivery and transport; farm and fishery labor needed to produce our food supply domestically
- Farm workers and support service workers to include those who field crops; commodity inspection; fuel ethanol facilities; storage facilities; and other agricultural inputs
- Employees and firms supporting food, feed, and beverage distribution (including curbside distribution and deliveries), including warehouse workers, vendor-managed inventory controllers, blockchain managers, distribution
- Workers supporting the sanitation of all food manufacturing processes and operations from wholesale to retail
- Company cafeterias - in-plant cafeterias used to feed employees
- Workers in food testing labs in private industries and in institutions of higher education
- Workers essential for assistance programs and government payments
- Workers supporting cannabis retail and dietary supplement retail
- Employees of companies engaged in the production of chemicals, medicines, vaccines, and other substances used by the food and agriculture industry, including pesticides, herbicides, fertilizers, minerals, enrichments, and other agricultural production aids
- Animal agriculture workers to include those employed in veterinary health; manufacturing and distribution of animal medical materials, animal vaccines, animal drugs, feed ingredients, feed, and bedding, etc.; transportation of live animals, animal medical materials; transportation of deceased animals for disposal; raising of animals for food; animal production operations; slaughter and packing plants and associated regulatory and government workforce
- Workers who support the manufacture and distribution of forest products, including, but not limited to timber, paper, and other wood products

- Employees engaged in the manufacture and maintenance of equipment and other infrastructure necessary to agricultural production and distribution

ENERGY

Sector Profile

The Energy Sector consists of widely-diverse and geographically-dispersed critical assets and systems that are often interdependent of one another. This critical infrastructure is divided into three interrelated segments or subsectors—electricity, oil, and natural gas—to include the production, refining, storage, and distribution of oil, gas, and electric power, except for hydroelectric and commercial nuclear power facilities and pipelines. The Energy Sector supplies fuels to the transportation industry, electricity to households and businesses, and other sources of energy that are integral to growth and production across the Nation. In turn, it depends on the Nation's transportation, information technology, communications, finance, water, and government infrastructures.

Essential Workforce - Electricity industry:

- Workers who maintain, ensure, or restore the generation, transmission, and distribution of electric power, including call centers, utility workers, reliability engineers and fleet maintenance technicians
- Workers needed for safe and secure operations at nuclear generation
- Workers at generation, transmission, and electric blackstart facilities
- Workers at Reliability Coordinator (RC), Balancing Authorities (BA), and primary and backup Control Centers (CC), including but not limited to independent system operators, regional transmission organizations, and balancing authorities
- Mutual assistance personnel
- IT and OT technology staff – for EMS (Energy Management Systems) and Supervisory Control and Data
- Acquisition (SCADA) systems, and utility data centers; Cybersecurity engineers; cybersecurity risk management
- Vegetation management crews and traffic workers who support
- Environmental remediation/monitoring technicians
- Instrumentation, protection, and control technicians

Essential Workforce - Petroleum workers:

- Petroleum product storage, pipeline, marine transport, terminals, rail transport, road transport
- Crude oil storage facilities, pipeline, and marine transport
- Petroleum refinery facilities
- Petroleum security operations center employees and workers who support emergency response services

- Petroleum operations control rooms/centers
- Petroleum drilling, extraction, production, processing, refining, terminal operations, transporting, and retail for use as end-use fuels or feedstocks for chemical manufacturing
- Onshore and offshore operations for maintenance and emergency response
- Retail fuel centers such as gas stations and truck stops, and the distribution systems that support them.

Essential Workforce - Natural and propane gas workers:

- Natural gas transmission and distribution pipelines, including compressor stations
- Underground storage of natural gas
- Natural gas processing plants, and those that deal with natural gas liquids
- Liquefied Natural Gas (LNG) facilities
- Natural gas security operations center, natural gas operations dispatch and control rooms/centers natural gas emergency response and customer emergencies, including natural gas leak calls
- Drilling, production, processing, refining, and transporting natural gas for use as end-use fuels, feedstocks for chemical manufacturing, or use in electricity generation
- Propane gas dispatch and control rooms and emergency response and customer emergencies, including propane leak calls
- Propane gas service maintenance and restoration, including call centers
- Processing, refining, and transporting natural liquids, including propane gas, for use as end-use fuels or feedstocks for chemical manufacturing
- Propane gas storage, transmission, and distribution centers

WATER AND WASTEWATER

Sector Profile

The Water and Wastewater Sector is a complex sector composed of drinking water and wastewater infrastructure of varying sizes and ownership types. Multiple governing authorities pertaining to the Water and Wastewater Sector provide for public health, environmental protection, and security measures, among others.

Essential Workforce

Employees needed to operate and maintain drinking water and wastewater/drainage infrastructure, including:

- Operational staff at water authorities
- Operational staff at community water systems
- Operational staff at wastewater treatment facilities
- Workers repairing water and wastewater conveyances and performing required sampling or monitoring

- Operational staff for water distribution and testing
- Operational staff at wastewater collection facilities
- Operational staff and technical support for SCADA Control systems
- Chemical disinfectant suppliers for wastewater and personnel protection
- Workers that maintain digital systems infrastructure supporting water and wastewater operations

TRANSPORTATION AND LOGISTICS

Sector Profile

The Transportation Systems Sector consists of seven key subsectors, or modes:

- Aviation includes aircraft, air traffic control systems, and airports, heliports, and landing strips. Commercial aviation services at civil and joint-use military airports, heliports, and sea plane bases. In addition, the aviation mode includes commercial and recreational aircraft (manned and unmanned) and a wide-variety of support services, such as aircraft repair stations, fueling facilities, navigation aids, and flight schools.
- Highway and Motor Carrier encompasses roadway, bridges, and tunnels. Vehicles include trucks, including those carrying hazardous materials; other commercial vehicles, including commercial motorcoaches and school buses; vehicle and driver licensing systems; taxis, transportation services including Transportation Network Companies, and delivery services including Delivery Network Companies; traffic management systems; AND cyber systems used for operational management.
- Maritime Transportation System consists of coastline, ports, waterways, and intermodal landside connections that allow the various modes of transportation to move people and goods to, from, and on the water.
- Mass Transit and Passenger Rail includes terminals, operational systems, and supporting infrastructure for passenger services by transit buses, trolleybuses, monorail, heavy rail—also known as subways or metros—light rail, passenger rail, and vanpool/rideshare.
- Pipeline Systems consist of pipelines carrying natural gas hazardous liquids, as well as various chemicals. Above-ground assets, such as compressor stations and pumping stations, are also included.
- Freight Rail consists of major carriers, smaller railroads, active railroad, freight cars, and locomotives.
- Postal and Shipping includes large integrated carriers, regional and local courier services, mail services, mail management firms, and chartered and delivery services.

Essential Workforce

- Employees supporting or enabling transportation functions, including dispatchers, maintenance and repair technicians, warehouse workers, truck stop and rest area workers, and workers that maintain and inspect infrastructure (including those that require cross-border travel)
- Employees of firms providing services that enable logistics operations, including cooling, storing, packaging, and distributing products for wholesale or retail sale or use.
- Mass transit workers
- Taxis, transportation services including Transportation Network Companies, and delivery services including Delivery Network Companies
- Workers responsible for operating dispatching passenger, commuter and freight trains and maintaining rail infrastructure and equipment
- Maritime transportation workers - port workers, mariners, equipment operators
- Truck drivers who haul hazardous and waste materials to support critical infrastructure, capabilities, functions, and services
- Automotive repair and maintenance facilities
- Manufacturers and distributors (to include service centers and related operations) of packaging materials, pallets, crates, containers, and other supplies needed to support manufacturing, packaging staging and distribution operations
- Postal and shipping workers, to include private companies
- Employees who repair and maintain vehicles, aircraft, rail equipment, marine vessels, and the equipment and infrastructure that enables operations that encompass movement of cargo and passengers
- Air transportation employees, including air traffic controllers, ramp personnel, aviation security, and aviation management
- Workers who support the maintenance and operation of cargo by air transportation, including flight crews, maintenance, airport operations, and other on- and off- airport facilities workers

COMMUNICATIONS AND INFORMATION TECHNOLOGY

Sector Profile

The Communications Sector provides products and services that support the efficient operation of today's global information-based society. Communication networks enable people around the world to contact one another, access information instantly, and communicate from remote areas. This involves creating a link between a sender (including voice signals) and one or more recipients using technology (e.g., a telephone system or the Internet) to transmit information from one location to another. Technologies are changing at a rapid pace, increasing the number of products, services, service providers, and communication options. The national communications architecture is a complex collection of networks that are owned and operated by individual service providers. Many of this sector's products and services are foundational or necessary for the operations and services provided by other critical infrastructure sectors. The nature of communication networks involve both physical infrastructure (buildings, switches, towers, antennas, etc.) and cyber infrastructure (routing and

switching software, operational support systems, user applications, etc.), representing a holistic challenge to address the entire physical-cyber infrastructure.

The IT Sector provides products and services that support the efficient operation of today's global information-based society and are integral to the operations and services provided by other critical infrastructure Sectors. The IT Sector is comprised of small and medium businesses, as well as large multinational companies. Unlike many critical infrastructure Sectors composed of finite and easily identifiable physical assets, the IT Sector is a functions-based Sector that comprises not only physical assets but also virtual systems and networks that enable key capabilities and services in both the public and private sectors.

Essential Workforce - Communications:

- Maintenance of communications infrastructure- including privately owned and maintained communication systems- supported by technicians, operators, call-centers, wireline and wireless providers, cable service providers, satellite operations, undersea cable landing stations, Internet Exchange Points, and manufacturers and distributors of communications equipment
- Workers who support radio, television, and media service, including, but not limited to front line news reporters, studio, and technicians for newsgathering and reporting
- Workers at Independent System Operators and Regional Transmission Organizations, and Network Operations staff, engineers and/or technicians to manage the network or operate facilities
- Engineers, technicians and associated personnel responsible for infrastructure construction and restoration, including contractors for construction and engineering of fiber optic cables
- Installation, maintenance and repair technicians that establish, support or repair service as needed
- Central office personnel to maintain and operate central office, data centers, and other network office facilities
- Customer service and support staff, including managed and professional services as well as remote providers of support to transitioning employees to set up and maintain home offices, who interface with customers to manage or support service environments and security issues, including payroll, billing, fraud, and troubleshooting
- Dispatchers involved with service repair and restoration

Essential Workforce - Information Technology:

- Workers who support command centers, including, but not limited to Network Operations Command Center, Broadcast Operations Control Center and Security Operations Command Center
- Data center operators, including system administrators, HVAC & electrical engineers, security personnel, IT managers, data transfer solutions engineers, software and hardware engineers, and database administrators
- Client service centers, field engineers, and other technicians supporting critical infrastructure, as well as manufacturers and supply chain vendors that provide hardware and software, and

information technology equipment (to include microelectronics and semiconductors) for critical infrastructure

- Workers responding to cyber incidents involving critical infrastructure, including medical facilities, SLTT governments and federal facilities, energy and utilities, and banks and financial institutions, and other critical infrastructure categories and personnel
- Workers supporting the provision of essential global, national and local infrastructure for computing services (incl. cloud computing services), business infrastructure, web-based services, and critical manufacturing
- Workers supporting communications systems and information technology used by law enforcement, public safety, medical, energy and other critical industries
- Support required for continuity of services, including janitorial/cleaning personnel

OTHER COMMUNITY-BASED GOVERNMENT OPERATIONS AND ESSENTIAL FUNCTIONS

Essential Workforce

- Critical government workers, as defined by the employer and consistent with Continuity of Operations Plans and Continuity of Government plans.
- County workers responsible for determining eligibility for safety net benefits
- The Courts, consistent with [guidance](#) released by the California Chief Justice
- Workers to ensure continuity of building functions
- Security staff to maintain building access control and physical security measures
- Elections personnel
- Federal, State, and Local, Tribal, and Territorial employees who support Mission Essential Functions and communications networks
- Trade Officials (FTA negotiators; international data flow administrators)
- Weather forecasters
- Workers that maintain digital systems infrastructure supporting other critical government operations
- Workers at operations centers necessary to maintain other essential functions
- Workers who support necessary credentialing, vetting and licensing operations for transportation workers
- Workers who are critical to facilitating trade in support of the national, state, and local emergency response supply chain
- Workers supporting public and private childcare establishments, pre-K establishments, K-12 schools, colleges, and universities for purposes of distance learning, provision of school meals, or care and supervision of minors to support essential workforce across all sectors

- Workers and instructors supporting academies and training facilities and courses for the purpose of graduating students and cadets that comprise the essential workforce for all identified critical sectors
- Hotel Workers where hotels are used for COVID-19 mitigation and containment measures, including measures to protect homeless populations.
- Construction Workers who support the construction, operation, inspection, and maintenance of construction sites and construction projects (including housing construction)
- Workers such as plumbers, electricians, exterminators, and other service providers who provide services that are necessary to maintaining the safety, sanitation, [construction material sources](#), and essential operation of construction sites and construction projects (including those that support such projects to ensure the availability of needed facilities, transportation, energy and communications; and support to ensure the effective removal, storage, and disposal of solid waste and hazardous waste)
- Commercial Retail Stores, that supply essential sectors, including convenience stores, pet supply stores, auto supplies and repair, hardware and home improvement, and home appliance retailers
- Workers supporting the entertainment industries, studios, and other related establishments, provided they follow covid-19 public health guidance around social distancing.
- Workers critical to operating Rental Car companies that facilitate continuity of operations for essential workforces, and other essential travel
- Workers that provide or determine eligibility for food, shelter, in-home supportive services, child welfare, adult protective services and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals (including family members)
- Professional services, such as legal or accounting services, when necessary to assist in compliance with legally mandated activities and critical sector services
- Faith based services that are provided through streaming or other technology
- Laundromats and laundry services
- [Workers at animal care facilities that provide food, shelter, veterinary and/or routine care and other necessities of life for animals.](#)

CRITICAL MANUFACTURING

Sector Profile

The Critical Manufacturing Sector identifies several industries to serve as the core of the sector: Primary Metals Manufacturing, Machinery Manufacturing, Electrical Equipment, Appliance, and Component Manufacturing, Transportation Equipment Manufacturing Products made by these manufacturing industries are essential to many other critical infrastructure sectors.

Essential Workforce

- Workers necessary for the manufacturing of materials and products needed for medical supply chains, transportation, energy, communications, food and agriculture, chemical manufacturing, nuclear facilities, the operation of dams, water and wastewater treatment, emergency services, and the defense industrial base.

HAZARDOUS MATERIALS

Essential Workforce

- Workers at nuclear facilities, workers managing medical waste, workers managing waste from pharmaceuticals and medical material production, and workers at laboratories processing test kits
- Workers who support hazardous materials response and cleanup
- Workers who maintain digital systems infrastructure supporting hazardous materials management operations

FINANCIAL SERVICES

Sector Profile

The Financial Services Sector includes thousands of depository institutions, providers of investment products, insurance companies, other credit and financing organizations, and the providers of the critical financial utilities and services that support these functions. Financial institutions vary widely in size and presence, ranging from some of the world's largest global companies with thousands of employees and many billions of dollars in assets, to community banks and credit unions with a small number of employees serving individual communities. Whether an individual savings account, financial derivatives, credit extended to a large organization, or investments made to a foreign country, these products allow customers to: Deposit funds and make payments to other parties; Provide credit and liquidity to customers; Invest funds for both long and short periods; Transfer financial risks between customers.

Essential Workforce

- Workers who are needed to process and maintain systems for processing financial transactions and services (e.g., payment, clearing, and settlement; wholesale funding; insurance services; and capital markets activities)
- Workers who are needed to provide consumer access to banking and lending services, including ATMs, and to move currency and payments (e.g., armored cash carriers)
- Workers who support financial operations, such as those staffing data and security operations centers

CHEMICAL

Sector Profile

The Chemical Sector—composed of a complex, global supply chain—converts various raw materials into diverse products that are essential to modern life. Based on the end product produced, the sector can be divided into five main segments, each of which has distinct characteristics, growth dynamics, markets, new developments, and issues: Basic chemicals; Specialty chemicals; Agricultural chemicals; Pharmaceuticals; Consumer products

Essential Workforce

- Workers supporting the chemical and industrial gas supply chains, including workers at chemical manufacturing plants, workers in laboratories, workers at distribution facilities, workers who transport basic raw chemical materials to the producers of industrial and consumer goods, including hand sanitizers, food and food additives, pharmaceuticals, textiles, and paper products.
- Workers supporting the safe transportation of chemicals, including those supporting tank truck cleaning facilities and workers who manufacture packaging items
- Workers supporting the production of protective cleaning and medical solutions, personal protective equipment, and packaging that prevents the contamination of food, water, medicine, among others essential products
- Workers supporting the operation and maintenance of facilities (particularly those with high risk chemicals and/ or sites that cannot be shut down) whose work cannot be done remotely and requires the presence of highly trained personnel to ensure safe operations, including plant contract workers who provide inspections
- Workers who support the production and transportation of chlorine and alkali manufacturing, single-use plastics, and packaging that prevents the contamination or supports the continued manufacture of food, water, medicine, and other essential products, including glass container manufacturing

DEFENSE INDUSTRIAL BASE

Sector Profile

The Defense Industrial Base Sector is the worldwide industrial complex that enables research and development, as well as design, production, delivery, and maintenance of military weapons systems, subsystems, and components or parts, to meet U.S. military requirements. The Defense Industrial Base partnership consists of Department of Defense components, Defense Industrial Base companies and their subcontractors who perform under contract to the Department of Defense, companies providing

incidental materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities. Defense Industrial Base companies include domestic and foreign entities, with production assets located in many countries. The sector provides products and services that are essential to mobilize, deploy, and sustain military operations.

Essential Workforce

- Workers who support the essential services required to meet national security commitments to the federal government and U.S. Military. These individuals, include but are not limited to, aerospace; mechanical and software engineers, manufacturing/production workers; IT support; security staff; security personnel; intelligence support, aircraft and weapon system mechanics and maintainers
- Personnel working for companies, and their subcontractors, who perform under contract to the Department of Defense providing materials and services to the Department of Defense, and government-owned/contractor-operated and government-owned/government-operated facilities

**EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA**

EXECUTIVE ORDER N-33-20

WHEREAS on March 4, 2020, I proclaimed a State of Emergency to exist in California as a result of the threat of COVID-19; and

WHEREAS in a short period of time, COVID-19 has rapidly spread throughout California, necessitating updated and more stringent guidance from federal, state, and local public health officials; and

WHEREAS for the preservation of public health and safety throughout the entire State of California, I find it necessary for all Californians to heed the State public health directives from the Department of Public Health.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes of the State of California, and in particular, Government Code sections 8567, 8627, and 8665 do hereby issue the following Order to become effective immediately:

IT IS HEREBY ORDERED THAT:

- 1) To preserve the public health and safety, and to ensure the healthcare delivery system is capable of serving all, and prioritizing those at the highest risk and vulnerability, all residents are directed to immediately heed the current State public health directives, which I ordered the Department of Public Health to develop for the current statewide status of COVID-19. Those directives are consistent with the March 19, 2020, Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response, found at: <https://covid19.ca.gov/>. Those directives follow:

ORDER OF THE STATE PUBLIC HEALTH OFFICER
March 19, 2020

To protect public health, I as State Public Health Officer and Director of the California Department of Public Health order all individuals living in the State of California to stay home or at their place of residence except as needed to maintain continuity of operations of the federal critical infrastructure sectors, as outlined at <https://www.cisa.gov/identifying-critical-infrastructure-during-covid-19>. In addition, and in consultation with the Director of the Governor's Office of Emergency Services, I may designate additional sectors as critical in order to protect the health and well-being of all Californians.

Pursuant to the authority under the Health and Safety Code 120125, 120140, 131080, 120130(c), 120135, 120145, 120175 and 120150, this order is to go into effect immediately and shall stay in effect until further notice.

The federal government has identified 16 critical infrastructure sectors whose assets, systems, and networks, whether physical or virtual, are considered so vital to the United States that their incapacitation or

destruction would have a debilitating effect on security, economic security, public health or safety, or any combination thereof. I order that Californians working in these 16 critical infrastructure sectors may continue their work because of the importance of these sectors to Californians' health and well-being.

This Order is being issued to protect the public health of Californians. The California Department of Public Health looks to establish consistency across the state in order to ensure that we mitigate the impact of COVID-19. Our goal is simple, we want to bend the curve, and disrupt the spread of the virus.

The supply chain must continue, and Californians must have access to such necessities as food, prescriptions, and health care. When people need to leave their homes or places of residence, whether to obtain or perform the functions above, or to otherwise facilitate authorized necessary activities, they should at all times practice social distancing.

- 2) The healthcare delivery system shall prioritize services to serving those who are the sickest and shall prioritize resources, including personal protective equipment, for the providers providing direct care to them.
- 3) The Office of Emergency Services is directed to take necessary steps to ensure compliance with this Order.
- 4) This Order shall be enforceable pursuant to California law, including, but not limited to, Government Code section 8665.

IT IS FURTHER ORDERED that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

This Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

IN WITNESS WHEREOF I have
hereunto set my hand and caused
the Great Seal of the State of
California to be affixed this 19th day
of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State



Families First Coronavirus Response Act: Questions and Answers

As provided under the legislation, the U.S. Department of Labor will be issuing implementing regulations. Additionally, as warranted, the Department will continue to provide compliance assistance to employers and employees on their responsibilities and rights under the FFCRA.

DEFINITIONS

“Paid sick leave” – means paid leave under the Emergency Paid Sick Leave Act.

“Expanded family and medical leave” – means paid leave under the Emergency Family and Medical Leave Expansion Act.

QUESTIONS & ANSWERS

1. **What is the effective date of the Families First Coronavirus Response Act (FFCRA), which includes the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act?**

The FFCRA’s paid leave provisions are effective on April 1, 2020, and apply to leave taken between April 1, 2020, and December 31, 2020.

2. **As an employer, how do I know if my business is under the 500-employee threshold and therefore must provide paid sick leave or expanded family and medical leave?**

You have fewer than 500 employees if, at the time your employee’s leave is to be taken, you employ fewer than 500 full-time and part-time employees within the United States, which includes any State of the United States, the District of Columbia, or any Territory or possession of the United States. In making this determination, you should include employees on leave; temporary employees who are jointly employed by you and

another employer (regardless of whether the jointly-employed employees are maintained on only your or another employer's 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). Workers who are independent contractors under the Fair Labor Standards Act (FLSA), rather than employees, are not considered employees for purposes of the 500-employee threshold.

Typically, a corporation (including its separate establishments or divisions) is considered to be a single employer and its employees must each be counted towards the 500-employee threshold. Where a corporation has an ownership interest in another corporation, the two corporations are separate employers unless they are joint employers under the FLSA with respect to certain employees. If two entities are found to be joint employers, all of their common employees must be counted in determining whether paid sick leave must be provided under the Emergency Paid Sick Leave Act and expanded family and medical leave must be provided under the Emergency Family and Medical Leave Expansion Act.

In general, two or more entities are separate employers unless they meet the integrated employer test under the Family and Medical Leave Act of 1993 (FMLA). If two entities are an integrated employer under the FMLA, then employees of all entities making up the integrated employer will be counted in determining employer coverage for purposes of paid sick leave under the Emergency Paid Sick Leave Act and expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act.

3. If I am a private sector employer and have 500 or more employees, do the Acts apply to me?

No. Private sector employers are only required to comply with the Acts if they have fewer than 500 employees.^[1]

4. If providing child care-related paid sick leave and expanded family and medical leave at my business with fewer than 50 employees would jeopardize the viability of my business as a going concern, how do I take advantage of the small business exemption?

To elect this small business exemption, you should document why your business with fewer than 50 employees meets the criteria set forth by the Department, which will be addressed in more detail in forthcoming regulations.

You should not send any materials to the Department of Labor when seeking a small business exemption for paid sick leave and expanded family and medical leave.

5. How do I count hours worked by a part-time employee for purposes of paid sick leave or expanded family and medical leave?

A part-time employee is entitled to leave for his or her average number of work hours in a two-week period. Therefore, you calculate hours of leave based on the number of hours the employee is normally scheduled to work. If the normal hours scheduled are unknown, or if the part-time employee's schedule varies, you may use a six-month average to calculate the average daily hours. Such a part-time employee may take paid sick leave for this number of hours per day for up to a two-week period, and may take expanded family and medical leave for the same number of hours per day up to ten weeks after that.

If this calculation cannot be made because the employee has not been employed for at least six months, use the number of hours that you and your employee agreed that the employee would work upon hiring. And if there is no such agreement, you may calculate the appropriate number of hours of leave based on the average hours per day the employee was scheduled to work over the entire term of his or her employment.

6. When calculating pay due to employees, must overtime hours be included?

Yes. The Emergency Family and Medical Leave Expansion Act requires you to pay an employee for hours the employee would have been normally scheduled to work even if that is more than 40 hours in a week.

However, the Emergency Paid Sick Leave Act requires that paid sick leave be paid only up to 80 hours over a two-week period. For example, an employee who is scheduled to work 50 hours a week may take 50 hours of paid sick leave in the first week and 30 hours of paid sick leave in the second week. In any event, the total number of hours paid under the Emergency Paid Sick Leave Act is capped at 80.

If the employee's schedule varies from week to week, please see the answer to [Question 5](#), because the calculation of hours for a full-time employee with a varying schedule is the same as that for a part-time employee.

Please keep in mind the daily and aggregate caps placed on any pay for paid sick leave and expanded family and medical leave as described in the answer to Question 7.

Please note that pay does not need to include a premium for overtime hours under either the Emergency Paid Sick Leave Act or the Emergency Family and Medical Leave Expansion Act.

7. As an employee, how much will I be paid while taking paid sick leave or expanded family and medical leave under the FFCRA?

It depends on your normal schedule as well as why you are taking leave.

If you are taking paid sick leave because you are unable to work or telework due to a need for leave because you (1) are subject to a Federal, State, or local quarantine or isolation order related to COVID-19; (2) have been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or (3) are experiencing symptoms of COVID-19 and are seeking medical diagnosis, you will receive for each applicable hour the greater of:

- your regular rate of pay,
- the federal minimum wage in effect under the FLSA, or
- the applicable State or local minimum wage.

In these circumstances, you are entitled to a maximum of \$511 per day, or \$5,110 total over the entire paid sick leave period.

If you are taking paid sick leave because you are: (1) caring for an individual who is subject to a Federal, State, or local quarantine or isolation order related to COVID-19 or an individual who has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; (2) caring for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; or (3) experiencing any other substantially-similar condition that may arise, as specified by the Secretary of Health and Human Services, you are entitled to compensation at 2/3 of the greater of the amounts above.

Under these circumstances, you are subject to a maximum of \$200 per day, or \$2,000 over the entire two week period.

If you are taking expanded family and medical leave, you may take paid sick leave for the first two weeks of that leave period, or you may substitute any accrued vacation leave, personal leave, or medical or sick leave you have under your employer's policy. For the following ten weeks, you will be paid for your leave at an amount no less than 2/3 of your regular rate of pay for the hours you would be normally scheduled to work. If you take paid sick leave during the first two weeks of unpaid expanded family and medical leave, you will not receive more than \$200 per day or \$12,000 for the twelve weeks that include both paid sick leave and expanded family and medical leave when you are on leave to care for your child whose school or place of care is closed, or child

care provider is unavailable, due to COVID-19 related reasons. If you take employer-provided accrued leave during those first two weeks, you are entitled to the full amount for such accrued leave, even if that is greater than \$200 per day.

To calculate the number of hours for which you are entitled to paid leave, please see the answers to [Questions 5-6](#) that are provided in this guidance.

8. What is my regular rate of pay for purposes of the FFCRA?

For purposes of the FFCRA, the regular rate of pay used to calculate your paid leave is the average of your regular rate over a period of up to six months prior to the date on which you take leave.^[2] If you have not worked for your current employer for six months, the regular rate used to calculate your paid leave is the average of your regular rate of pay for each week you have worked for your current employer.

If you are paid with commissions, tips, or piece rates, these amounts will be incorporated into the above calculation to the same extent they are included in the calculation of the regular rate under the FLSA.

You can also compute this amount for each employee by adding all compensation that is part of the regular rate over the above period and divide that sum by all hours actually worked in the same period.

9. May I take 80 hours of paid sick leave for my self-quarantine and then another amount of paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?

No. You may take up to two weeks—or ten days—(80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that the employee works over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

10. If I am home with my child because his or her school or place of care is closed, or child care provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both—how do they interact?

You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You may take both paid sick leave and expanded family and medical leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. 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 you elect to use existing vacation, personal, or medical or sick leave under your employer's policy. After the first ten workdays have elapsed, you will receive 2/3 of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Emergency and Family Medical Leave Expansion Act.

Please note that you can only receive the additional ten weeks of expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act for leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

11. Can my employer deny me paid sick leave if my employer gave me paid leave for a reason identified in the Emergency Paid Sick Leave Act prior to the Act going into effect?

No. The Emergency Paid Sick Leave Act imposes a new leave requirement on employers that is effective beginning on April 1, 2020.

12. Is all leave under the FMLA now paid leave?

No. The only type of family and medical leave that is paid leave is expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act when such leave exceeds ten days. This includes only leave taken because the employee must care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

13. Are the paid sick leave and expanded family and medical leave requirements retroactive?

No.

14. How do I know whether I have “been employed for at least 30 calendar days by the employer” for purposes of expanded family and medical leave?

You are considered to have been employed by your employer for at least 30 calendar days if your employer had you on its payroll for the 30 calendar days immediately prior to the day your leave would begin. For example, if you want to take leave on April 1, 2020, you would need to have been on your employer's payroll as of March 2, 2020.

If you have been working for a company as a temporary employee, and the company subsequently hires you on a full-time basis, you may count any days you previously worked as a temporary employee toward this 30-day eligibility period.

15. What records do I need to keep when my employee takes paid sick leave or expanded family and medical leave?

Private sector employers that provide paid sick leave and expanded family and medical leave required by the FFCRA are eligible for reimbursement of the costs of that leave through refundable tax credits. If you intend to claim a tax credit under the FFCRA for your payment of the sick leave or expanded family and medical leave wages, you should retain appropriate documentation in your records. You should consult Internal Revenue Service (IRS) applicable forms, instructions, and information for the procedures that must be followed to claim a tax credit, including any needed substantiation to be retained to support the credit. You are not required to provide leave if materials sufficient to support the applicable tax credit have not been provided.

If one of your employees takes expanded family and medical leave to care for his or her child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19, you may also require your employee to provide you with any additional documentation in support of such leave, to the extent permitted under the certification rules for conventional FMLA leave requests. For example, this could include a notice that has been posted on a government, school, or day care website, or published in a newspaper, or an email from an employee or official of the school, place of care, or child care provider.

16. What documents do I need to give my employer to get paid sick leave or expanded family and medical leave?

You must provide to your employer documentation in support of your paid sick leave as specified in applicable IRS forms, instructions, and information.

Your employer may also require you to provide additional in support of your expanded family and medical leave taken to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19-related reasons. For example, this may include a notice of closure or unavailability from your child's school, place of care, or child care provider, including a notice that may have been posted on a government, school, or day care website, published in a newspaper, or emailed to you from an employee or official of the school, place of care, or child care provider. Your employer must retain this notice or documentation in support of expanded family and medical leave, including while you may be taking unpaid leave that runs concurrently with paid sick leave if taken for the same reason.

Please also note that all existing certification requirements under the FMLA remain in effect if you are taking leave for one of the existing qualifying reasons under the FMLA.

For example, if you are taking leave beyond the two weeks of emergency paid sick leave because your medical condition for COVID-19-related reasons rises to the level of a serious health condition, you must continue to provide medical certifications under the FMLA if required by your employer.

17. When am I able to telework under the FFCRA?

You may telework when your employer permits or allows you to perform work while you are at home or at a location other than your normal workplace. Telework is work for which normal wages must be paid and is not compensated under the paid leave provisions of the FFCRA.

18. What does it mean to be unable to work, including telework for COVID-19 related reasons?

You are unable to work if your employer has work for you and one of the COVID-19 qualifying reasons set forth in the FFCRA prevents you from being able to perform that work, either under normal circumstances at your normal worksite or by means of telework.

If you and your employer agree that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

19. If I am or become unable to telework, am I entitled to paid sick leave or expanded family and medical leave?

If your employer permits teleworking—for example, allows you to perform certain tasks or work a certain number of hours from home or at a location other than your normal workplace—and you are unable to perform those tasks or work the required hours because of one of the qualifying reasons for paid sick leave, then you are entitled to take paid sick leave.

Similarly, if you are unable to perform those teleworking tasks or work the required teleworking hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, then you are entitled to take expanded family and medical leave. Of course, to the extent you are able to telework while caring for your child, paid sick leave and expanded family and medical leave is not available.

20. May I take my paid sick leave or expanded family and medical leave intermittently while teleworking?

Yes, if your employer allows it and if you are unable to telework your normal schedule of hours due to one of the qualifying reasons in the Emergency Paid Sick Leave Act. In that situation, you and your employer may agree that you may take paid sick leave intermittently while teleworking. Similarly, if you are prevented from teleworking your normal schedule of hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you and your employer may agree that you can take expanded family medical leave intermittently while teleworking.

You may take intermittent leave in any increment, provided that you and your employer agree. For example, if you agree on a 90-minute increment, you could telework from 1:00 PM to 2:30 PM, take leave from 2:30 PM to 4:00 PM, and then return to teleworking.

The Department encourages employers and employees to collaborate to achieve flexibility and meet mutual needs, and the Department is supportive of such voluntary arrangements that combine telework and intermittent leave.

21. May I take my paid sick leave intermittently while working at my usual worksite (as opposed to teleworking)?

It depends on why you are taking paid sick leave and whether your employer agrees. Unless you are teleworking, paid sick leave for qualifying reasons related to COVID-19 must be taken in full-day increments. It cannot be taken intermittently if the leave is being taken because:

- You are subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
- You have been advised by a health care provider to self-quarantine due to concerns related to COVID-19;
- You are experiencing symptoms of COVID-19 and seeking a medical diagnosis;
- You are caring for an individual who either is subject to a quarantine or isolation order related to COVID-19 or has been advised by a health care provider to self-quarantine due to concerns related to COVID-19; or
- You are experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

Unless you are teleworking, once you begin taking paid sick leave for one or more of these qualifying reasons, you must continue to take paid sick leave each day until you either (1) use the full amount of paid sick leave or (2) no longer have a qualifying reason

for taking paid sick leave. This limit is imposed because if you are sick or possibly sick with COVID-19, or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such paid sick leave as necessary to keep you from spreading the virus to others.

If you no longer have a qualifying reason for taking paid sick leave before you exhaust your paid sick leave, you may take any remaining paid sick leave at a later time, until December 31, 2020, if another qualifying reason occurs.

In contrast, if you and your employer agree, you may take paid sick leave intermittently if you are taking paid sick leave to care for your child whose school or place of care is closed, or whose child care provider is unavailable, because of COVID-19 related reasons. For example, if your child is at home because his or her school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you may take paid sick leave on Mondays, Wednesdays, and Fridays to care for your child, but work at your normal worksite on Tuesdays and Thursdays.

The Department encourages employers and employees to collaborate to achieve maximum flexibility. Therefore, if employers and employees agree to intermittent leave on less than a full work day for employees taking paid sick leave to care for their child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19-related reasons, the Department is supportive of such voluntary arrangements.

22. May I take my expanded family and medical leave intermittently while my child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, if I am not teleworking?

Yes, but only with your employer's permission. Intermittent expanded family and medical leave should be permitted only when you and your employer agree upon such a schedule. For example, if your employer and you agree, you may take expanded family and medical leave on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while your child is at home because your child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, for the duration of your leave.

The Department encourages employers and employees to collaborate to achieve flexibility. Therefore, if employers and employees agree to intermittent leave on a day-by-day basis, the Department supports such voluntary arrangements.

23. If my employer closed my worksite before April 1, 2020 (the effective date of the FFCRA), can I still get paid sick leave or expanded family and medical leave?

No. If, prior to the FFCRA's effective date, your employer sent you home and stops paying you because it does not have work for you to do, you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it is required to close pursuant to a Federal, State, or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

It should be noted, however, that if your employer is paying you pursuant to a paid leave policy or State or local requirements, you are not eligible for unemployment insurance.

24. If my employer closes my worksite on or after April 1, 2020 (the effective date of the FFCRA), but before I go out on leave, can I still get paid sick leave and/or expanded family and medical leave?

No. If your employer closes after the FFCRA's effective date (even if you requested leave prior to the closure), you will not get paid sick leave or expanded family and medical leave but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it was required to close pursuant to a Federal, State or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

25. If my employer closes my worksite while I am on paid sick leave or expanded family and medical leave, what happens?

If your employer closes while you are on paid sick leave or expanded family and medical leave, your employer must pay for any paid sick leave or expanded family and medical leave you used before the employer closed. As of the date your employer closes your worksite, you are no longer entitled to paid sick leave or expanded family and medical leave, but you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because the employer was required to close pursuant to a Federal, State or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

26. If my employer is open, but furloughs me on or after April 1, 2020 (the effective date of the FFCRA), can I receive paid sick leave or expanded family and medical leave?

No. If your employer furloughs you because it does not have enough work or business for you, you are not entitled to then take paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

27. If my employer closes my worksite on or after April 1, 2020 (the effective date of the FFCRA), but tells me that it will reopen at some time in the future, can I receive paid sick leave or expanded family and medical leave?

No, not while your worksite is closed. If your employer closes your worksite, even for a short period of time, you are not entitled to take paid sick leave or expanded family and medical leave. However, you may be eligible for unemployment insurance benefits. This is true whether your employer closes your worksite for lack of business or because it was required to close pursuant to a Federal, State, or local directive. You should contact your State workforce agency or State unemployment insurance office for specific questions about your eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>. If your employer reopens and you resume work, you would then be eligible for paid sick leave or expanded family and medical leave as warranted.

28. If my employer reduces my scheduled work hours, can I use paid sick leave or expanded family and medical leave for the hours that I am no longer scheduled to work?

No. If your employer reduces your work hours because it does not have work for you to perform, you may not use paid sick leave or expanded family and medical leave for the hours that you are no longer scheduled to work. This is because you are not prevented from working those hours due to a COVID-19 qualifying reason, even if your reduction in hours was somehow related to COVID-19.

You may, however, take paid sick leave or expanded family and medical leave if a COVID-19 qualifying reason prevents you from working your full schedule. If you do, the amount of leave to which you are entitled is computed based on your work schedule before it was reduced (see [Question 5](#)).

29. May I collect unemployment insurance benefits for time in which I receive pay for paid sick leave and/or expanded family and medical leave?

No. If your employer provides you paid sick leave or expanded family and medical leave, you are not eligible for unemployment insurance. However, each State has its own unique set of rules; and DOL recently clarified additional flexibility to the States (UIPL 20-10) to extend partial unemployment benefits to workers whose hours or pay have been reduced. Therefore, individuals should contact their State workforce agency or State unemployment insurance office for specific questions about eligibility. For additional information, please refer to <https://www.careeronestop.org/LocalHelp/service-locator.aspx>.

30. If I elect to take paid sick leave or expanded family and medical leave, must my employer continue my health coverage? If I remain on leave beyond the maximum period of expanded family and medical leave, do I have a right to keep my health coverage?

If your employer provides group health coverage that you've elected, you are entitled to continued group health coverage during your expanded family and medical leave on the same terms as if you continued to work. If you are enrolled in family coverage, your employer must maintain coverage during your expanded family and medical leave. You generally must continue to make any normal contributions to the cost of your health coverage. See WHD Fact Sheet 28A: <https://www.dol.gov/agencies/whd/fact-sheets/28a-fmla-employee-protections>.

If you do not return to work at the end of your expanded family and medical leave, check with your employer to determine whether you are eligible to keep your health coverage on the same terms (including contribution rates). If you are no longer eligible, you may be able to continue your coverage under the Consolidated Omnibus Budget Reconciliation Act (COBRA). COBRA, which generally applies to employers with 20 or more employees, allows you and your family to continue the same group health coverage at group rates. Your share of that cost may be higher than what you were paying before but may be lower than what you would pay for private individual health insurance coverage. (If your employer has fewer than 20 employees, you may be eligible to continue your health insurance under State laws that are similar to COBRA. These laws are sometimes referred to as "mini COBRA" and vary from State to State.) Contact the Employee Benefits Security Administration at <https://www.dol.gov/agencies/ebsa/workers-and-families/changing-jobs-and-job-loss> to learn about health and retirement benefit protections for dislocated workers.

If you elect to take paid sick leave, your employer must continue your health coverage. Under the Health Insurance Portability and Accountability Act (HIPAA), an employer cannot establish a rule for eligibility or set any individual's premium or contribution rate based on whether an individual is actively at work (including whether an individual is continuously employed), unless absence from work due to any health factor (such as being absent from work on sick leave) is treated, for purposes of the plan or health insurance coverage, as being actively at work.

31. As an employee, may I use my employer's preexisting leave entitlements and my FFCRA paid sick leave and expanded family and medical leave concurrently for the same hours?

During the first two weeks of unpaid expanded family and medical leave, you may not simultaneously take paid sick leave under the EPSLA and preexisting paid leave, unless your employer agrees to allow you to supplement the amount you receive from paid sick leave with your preexisting paid leave, up to your normal earnings. After the first two workweeks (usually 10 workdays) of expanded family and medical leave under the EFMLEA, however, you may elect—or be required by your employer—to take your remaining expanded family and medical leave at the same time as any existing paid leave that, under your employer's policies, would be available to you in that circumstance. This would likely include personal leave or paid time off, but not medical or sick leave if you are not ill.

If you are required to take your existing leave concurrently with your remaining expanded family and medical leave, your employer must pay you the full amount to which you are entitled under your existing paid leave policy for the period of leave taken. If you exhaust your preexisting paid leave and still are entitled to additional expanded family and medical leave, your employer must pay you at least 2/3 of your pay for subsequent periods of expanded family and medical leave taken, up to \$200 per workday and \$10,000 in the aggregate, for expanded family and medical leave.

32. If I am an employer, may I use the paid sick leave mandated under the EPSLA to satisfy paid leave entitlements that an employee may have under my paid leave policy?

No, unless your employee agrees. Paid sick leave under the EPSLA is in addition to your employee's (including Federal Employees') other leave entitlements. You may not require your employee to use provided or accrued paid vacation, personal, medical, or sick leave before the paid sick leave. You also may not require your employee to use such existing leave concurrently with the paid sick leave under the EPSLA. But if you and your employee agree, your employee may use preexisting leave entitlements to

supplement the amount he or she receives from paid sick leave, up to the employee's normal earnings. Note, however, that you are not entitled to a tax credit for any paid sick leave that is not required to be paid or exceeds the limits set forth under the EPSLA. You are free to amend your own policies to the extent consistent with applicable law.

33. If I am an employer, may I require my employee to take paid leave he or she may have under my existing paid leave policy concurrently with expanded family and medical leave under the EFMLEA?

Yes. After the first two workweeks (usually 10 workdays) of expanded family and medical leave under the EFMLEA, you may require that your employee take concurrently for the same hours expanded family and medical leave and existing leave that, under your policies, would be available to the employee in that circumstance. This would likely include personal leave or paid time off, but not medical or sick leave if your employee (or a covered family member) is not ill.

If you do so, you must pay your employee the full amount to which he or she is entitled under your existing paid leave policy for the period of leave taken. You must pay your employee at least 2/3 of his or her pay for subsequent periods of expanded family and medical leave taken, up to \$200 per workday and \$10,000 in the aggregate, for expanded family and medical leave. If your employee exhausts all preexisting paid vacation, personal, medical, or sick leave, you would need to pay your employee at least 2/3 of his or her pay for subsequent periods of expanded family and medical leave taken, up to \$200 per day and \$10,000 in the aggregate. You are free to amend your own policies to the extent consistent with applicable law.

34. If I want to pay my employees more than they are entitled to receive for paid sick leave or expanded family and medical leave, can I do so and claim a tax credit for the entire amount paid to them?

You may pay your employees in excess of FFCRA requirements. But you cannot claim, and will not receive tax credit for, those amounts in excess of the FFCRA's statutory limits.

35. I am an employer that is part of a multiemployer collective bargaining agreement, may I satisfy my obligations under the Emergency Family and Medical Leave Expansion Act through contributions to a multiemployer fund, plan, or program?

You may satisfy your obligations under the Emergency Family and Medical Leave Expansion Act by making contributions to a multiemployer fund, plan, or other program in accordance with your existing collective bargaining obligations. These

contributions must be based on the amount of paid family and medical leave to which each of your employees is entitled under the Act based on each employee's work under the multiemployer collective bargaining agreement. Such a fund, plan, or other program must allow employees to secure or obtain their pay for the related leave they take under the Act. Alternatively, you may also choose to satisfy your obligations under the Act by other means, provided they are consistent with your bargaining obligations and collective bargaining agreement.

36. I am an employer that is part of a multiemployer collective bargaining agreement, may I satisfy my obligations under the Emergency Paid Sick Leave Act through contributions to a multiemployer fund, plan, or program?

You may satisfy your obligations under the Emergency Paid Sick Leave Act by making contributions to a multiemployer fund, plan, or other program in accordance with your existing collective bargaining obligations. These contributions must be based on the hours of paid sick leave to which each of your employees is entitled under the Act based on each employee's work under the multiemployer collective bargaining agreement. Such a fund, plan, or other program must allow employees to secure or obtain their pay for the related leave they take under the Act. Alternatively, you may also choose to satisfy your obligations under the Act by other means, provided they are consistent with your bargaining obligations and collective bargaining agreement.

37. Are contributions to a multiemployer fund, plan, or other program the only way an employer that is part of a multiemployer collective bargaining agreement may comply with the paid leave requirements of the FFCRA?

No. Both the Emergency Paid Sick Leave Act and the Emergency Family and Medical Leave Expansion Act provide that, consistent with its bargaining obligations and collective bargaining agreement, an employer may satisfy its legal obligations under both Acts by making appropriate contributions to such a fund, plan, or other program based on the paid leave owed to each employee. However, the employer may satisfy its obligations under both Acts by other means, provided they are consistent with its bargaining obligations and collective bargaining agreement.

38. Assuming I am a covered employer, which of my employees are eligible for paid sick leave and expanded family and medical leave?

Both of these new provisions use the employee definition as provided by the Fair Labor Standards Act, thus all of your U.S. (including Territorial) employees who meet this definition are eligible including full-time and part-time employees, and "joint employees" working on your site temporarily and/or through a temp agency. However, if you employ a health care provider or an emergency responder you are not required

to pay such employee paid sick leave or expanded family and medical leave on a case-by-case basis. And certain small businesses may exempt employees if the leave would jeopardize the company's viability as a going concern. See [Question 58](#) below.

There is one difference regarding an employee's eligibility for paid sick leave versus expanded family and medical leave. While your employee is eligible for paid sick leave regardless of length of employment, your employee must have been employed for 30 calendar days in order to qualify for expanded family and medical leave. For example, if your employee requests expanded family and medical leave on April 10, 2020, he or she must have been your employee since March 11, 2020.

39. Who is a covered employer that must provide paid sick leave and expanded family and medical leave under the FFCRA?

Generally, if you employ fewer than 500 employees you are a covered employer that must provide paid sick leave and expanded family and medical leave. For additional information on the 500 employee threshold, see [Question 2](#). Certain employers with fewer than 50 employees may be exempt from the Act's requirements to provide certain paid sick leave and expanded family and medical leave. For additional information regarding this small business exemption, see [Question 4](#) and [Questions 58 and 59](#) below.

Certain public employers are also covered under the Act and must provide paid sick leave and expanded family and medical leave. For additional information regarding coverage of public employers, see [Questions 52-54](#) below.

40. Who is a son or daughter?

Under the FFCRA, a "son or daughter" is your own child, which includes your biological, adopted, or foster child, your stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child. For additional information about in loco parentis, see [Fact Sheet #28B: Family and Medical Leave Act \(FMLA\) leave for birth, placement, bonding or to care for a child with a serious health condition on the basis of an "in loco parentis" relationship](#).

In light of Congressional direction to interpret definitions consistently, WHD clarifies that under the FFCRA a "son or daughter" is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability. For additional information on

requirements relating to an adult son or daughter, see [Fact Sheet #28K](#) and/or call our toll free information and help line available 8 am–5 pm in your time zone, 1-866-4US-WAGE (1-866-487-9243).

41. What do I do if my employer, who I believe to be covered, refuses to provide me paid sick leave?

If you believe that your employer is covered and is improperly refusing you paid sick leave under the Emergency Paid Sick Leave Act, the Department encourages you to raise and try to resolve your concerns with your employer. Regardless of whether you discuss your concerns with your employer, if you believe your employer is improperly refusing you paid sick leave, you may call 1-866-4US-WAGE (1-866-487-9243). WHD is responsible for administering and enforcing these provisions. If you have questions or concerns, you can contact WHD by phone or visit www.dol.gov/agencies/whd. Your call will be directed to the nearest WHD office for assistance to have your questions answered or to file a complaint. In most cases, you can also file a lawsuit against your employer directly without contacting WHD. If you are a public sector employee, please see the answer to [Question 54](#).

42. What do I do if my employer, who I believe to be covered, refuses to provide me expanded family and medical leave to care for my own son or daughter whose school or place of care has closed, or whose child care provider is unavailable, for COVID-19 related reasons?

If you believe that your employer is covered and is improperly refusing you expanded family and medical leave or otherwise violating your rights under the Emergency Family and Medical Leave Expansion Act, the Department encourages you to raise and try to resolve your concerns with your employer. Regardless whether you discuss your concerns with your employer, if you believe your employer is improperly refusing you expanded family and medical leave, you may call WHD at 1-866-4US-WAGE (1-866-487-9243) or visit www.dol.gov/agencies/whd. Your call will be directed to the nearest WHD office for assistance to have your questions answered or to file a complaint. If your employer employs 50 or more employees, you also may file a lawsuit against your employer directly without contacting WHD. If you are a public sector employee, please see the answer to [Question 54](#).

43. Do I have a right to return to work if I am taking paid sick leave or expanded family and medical leave under the Emergency Paid Sick Leave Act or the Emergency Family and Medical Leave Expansion Act?

Generally, yes. In light of Congressional direction to interpret requirements among the Acts consistently, WHD clarifies that the Acts require employers to provide the same (or a nearly equivalent) job to an employee who returns to work following leave.

In most instances, you are entitled to be restored to the same or an equivalent position upon return from paid sick leave or expanded family and medical leave. Thus, your employer is prohibited from firing, disciplining, or otherwise discriminating against you because you take paid sick leave or expanded family and medical leave. Nor can your employer fire, discipline, or otherwise discriminate against you because you filed any type of complaint or proceeding relating to these Acts, or have or intend to testify in any such proceeding.

However, you are not protected from employment actions, such as layoffs, that would have affected you regardless of whether you took leave. This means your employer can lay you off for legitimate business reasons, such as the closure of your worksite. Your employer must be able to demonstrate that you would have been laid off even if you had not taken leave.

Your employer may also refuse to return you to work in your same position if you are a highly compensated “key” employee as defined under the FMLA, or if your employer has fewer than 25 employees, and you took leave to care for your own son or daughter whose school or place of care was closed, or whose child care provider was unavailable, and all four of the following hardship conditions exist:

- your position no longer exists due to economic or operating conditions that affect employment and due to COVID-19 related reasons during the period of your leave;
- your employer made reasonable efforts to restore you to the same or an equivalent position;
- your employer makes reasonable efforts to contact you if an equivalent position becomes available; and
- your employer continues to make reasonable efforts to contact you for one year beginning either on the date the leave related to COVID-19 reasons concludes or the date 12 weeks after your leave began, whichever is earlier.

44. Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the Family and Medical Leave Act (FMLA)?

If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

However, if your employer was covered by the FMLA prior to April 1, 2020, your eligibility for expanded family and medical leave depends on how much leave you have already taken during the 12-month period that your employer uses for FMLA leave. You may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period. If you have taken some, but not all, 12 workweeks of your leave under FMLA during the current 12-month period determined by your employer, you may take the remaining portion of leave available. If you have already taken 12 workweeks of FMLA leave during this 12-month period, you may not take additional expanded family and medical leave.

For example, assume you are eligible for preexisting FMLA leave and took two weeks of such leave in January 2020 to undergo and recover from a surgical procedure. You therefore have 10 weeks of FMLA leave remaining. Because expanded family and medical leave is a type of FMLA leave, you would be entitled to take up to 10 weeks of expanded family and medical leave, rather than 12 weeks. And any expanded family and medical leave you take would count against your entitlement to preexisting FMLA leave.

If your employer only becomes covered under the FMLA on April 1, 2020, this analysis does not apply.

45. May I take leave under the Family and Medical Leave Act over the next 12 months if I used some or all of my expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act?

It depends. You may take a total of 12 workweeks of leave during a 12-month period under the FMLA, including the Emergency Family and Medical Leave Expansion Act. If you take some, but not all 12, workweeks of your expanded family and medical leave by December 31, 2020, you may take the remaining portion of FMLA leave for a serious medical condition, as long as the total time taken does not exceed 12 workweeks in the 12-month period. Please note that expanded family and medical leave is available only until December 31, 2020; after that, you may only take FMLA leave.

For example, assume you take four weeks of Expanded Family and Medical Leave in April 2020 to care for your child whose school is closed due to a COVID-19 related reason. These four weeks count against your entitlement to 12 weeks of FMLA leave in a 12-month period. If you are eligible for preexisting FMLA leave and need to take such leave in August 2020 because you need surgery, you would be entitled to take up to eight weeks of FMLA leave.

However, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA. Paid sick leave is not a form of FMLA leave and therefore does not count toward the 12 workweeks in the 12-month period cap. But please note that if you take paid sick leave concurrently with the first two weeks of expanded family and medical leave, which may otherwise be unpaid, then those two weeks do count towards the 12 workweeks in the 12-month period.

46. If I take paid sick leave under the Emergency Paid Sick Leave Act, does that count against other types of paid sick leave to which I am entitled under State or local law, or my employer's policy?

No. Paid sick leave under the Emergency Paid Sick Leave Act is in addition to other leave provided under Federal, State, or local law; an applicable collective bargaining agreement; or your employer's existing company policy.

47. May I use paid sick leave and expanded family and medical leave together for any COVID-19 related reasons?

No. The Emergency Family and Medical Leave Expansion Act applies only when you are on leave to care for your child whose school or place of care is closed, or whose child care provider is unavailable, due to COVID-19 related reasons. However, you can take paid sick leave under the Emergency Paid Sick Leave Act for numerous other reasons.

48. What is a full-time employee under the Emergency Paid Sick Leave Act?

For purposes of the Emergency Paid Sick Leave Act, a full-time employee is an employee who is normally scheduled to work 40 or more hours per week.

In contrast, the Emergency Family and Medical Leave Expansion Act does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week will affect the amount of pay the employee is eligible to receive.

49. What is a part-time employee under the Emergency Paid Sick Leave Act?

For purposes of the Emergency Paid Sick Leave Act, a part-time employee is an employee who is normally scheduled to work fewer than 40 hours per week.

In contrast, the Emergency Family and Medical Leave Expansion Act does not distinguish between full- and part-time employees, but the number of hours an employee normally works each week affects the amount of pay the employee is eligible to receive.

50. How does the “for each working day during each of the 20 or more calendar workweeks in the current or preceding calendar” language in the FMLA definition of “employer” work under the Emergency Family and Medical Leave Expansion Act?

The language about counting employees over calendar workweeks is only in the FMLA’s definition for employer. This language does not apply to the Emergency Family and Medical Leave Expansion Act for purposes of expanded family and medical leave. Employers should use the number of employees on the day the employee’s leave would start to determine whether the employer has fewer than 500 employees for purposes of providing expanded family and medical leave and paid sick leave. See [Question 2](#) for more information.

51. I’ve elected to take paid sick leave and I am currently in a waiting period for my employer’s health coverage. If I am absent from work on paid sick leave during the waiting period, will my health coverage still take effect after I complete the waiting period on the same day that the coverage would otherwise take effect?

Yes. If you are on employer-provided group health coverage, you are entitled to group health coverage during your paid sick leave on the same terms as if you continued to work. Therefore, the requirements for eligibility, including any requirement to complete a waiting period, would apply in the same way as if you continued to work, including that the days you are on paid sick leave count towards completion of the waiting period. If, under the terms of the plan, an individual can elect coverage that becomes effective after completing the waiting period, the health coverage must take effect once the waiting period is complete.

52. I am a public sector employee. May I take paid sick leave under the Emergency Paid Sick Leave Act?

Generally, yes. You are entitled to paid sick leave if you work for a public agency or other unit of government, with the exceptions below. Therefore, you are probably entitled to paid sick leave if, for example, you work for the government of the United States, a State, the District of Columbia, a Territory or possession of the United States, a city, a municipality, a township, a county, a parish, or a similar government entity subject to the exceptions below. The Office of Management and Budget (OMB) has the authority to exclude some categories of U.S. Government Executive Branch employees from taking certain kinds of paid sick leave. If you are a Federal employee, the Department encourages you to seek guidance from your respective employers as to your eligibility to take paid sick leave.

Further, health care providers and emergency responders may be excluded by their employer from being able to take paid sick leave under the Act. See [Questions 56-57](#) below. These coverage limits also apply to public-sector health care providers and emergency responders.

53. I am a public sector employee. May I take paid family and medical leave under the Emergency Family and Medical Leave Expansion Act?

It depends. In general, you are entitled to expanded family and medical leave if you are an employee of a non-federal public agency. Therefore, you are probably entitled to paid sick leave if, for example, you work for the government of a State, the District of Columbia, a Territory or possession of the United States, a city, a municipality, a township, a county, a parish, or a similar entity.

But if you are a Federal employee, you likely are not entitled to expanded family and medical leave. The Act only amended Title I of the FMLA; most Federal employees are covered instead by Title II of the FMLA. As a result, only some Federal employees are covered, and the vast majority are not. In addition, the Office of Management and Budget (OMB) has the authority to exclude some categories of U.S. Government Executive Branch employees with respect to expanded and family medical leave. If you are a Federal employee, the Department encourages you to seek guidance from your respective employers as to your eligibility to take expanded family and medical leave.

Further, health care providers and emergency responders may be excluded by their employer from being able to take expanded family and medical leave under the Act. See [Questions 56-57](#) below. These coverage limits also apply to public-sector health care providers and emergency responders.

54. What do I do if my public sector employer, who I believe to be covered, refuses to provide me paid sick leave or expanded family and medical leave?

If you believe that your public sector employer is covered and is improperly refusing you paid sick leave under the Emergency Paid Sick Leave Act or expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act, the Department encourages you to raise your concerns with your employer in an attempt to resolve them. Regardless whether you discuss your concerns with your employer, if you believe your employer is improperly refusing you paid sick leave or expanded family and medical leave, you may call WHD at 1-866-4US-WAGE (1-866-487-9243) or visit www.dol.gov/agencies/whd. Your call will be directed to the [nearest WHD office](#) for assistance to have your questions answered or to file a complaint.

In some cases, you may also be able to file a lawsuit against your employer directly without contacting WHD. Some State and local employees may not be able to pursue direct lawsuits because their employers are immune from such lawsuits. For additional information, see the WHD website at: <https://www.wagehour.dol.gov> and/or call WHD's toll free information and help line available 8am–5pm in your time zone, 1-866-4-US-WAGE (1-866-487-9243).

55. Who is a “health care provider” for purposes of determining individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave?

The term “health care provider,” as used to determine individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave, means a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.

56. Who is a “health care provider” who may be excluded by their employer from paid sick leave and/or expanded family and medical leave?

For the purposes of employees who may be exempted from paid sick leave or expanded family and medical leave by their employer under the FFCRA, a health care provider is anyone employed at any doctor's office, hospital, health care center, clinic, post-secondary educational institution offering health care instruction, medical school, local health department or agency, nursing facility, retirement facility, nursing home, home health care provider, any facility that performs laboratory or medical testing, pharmacy, or any similar institution, employer, or entity. This includes any permanent or temporary institution, facility, location, or site where medical services are provided that are similar to such institutions.

This definition includes any individual employed by an entity that contracts with any of the above institutions, employers, or entities institutions to provide services or to maintain the operation of the facility. This also includes anyone employed by any entity that provides medical services, produces medical products, or is otherwise involved in the making of COVID-19 related medical equipment, tests, drugs, vaccines, diagnostic vehicles, or treatments. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is a health care provider necessary for that state's or territory's or the District of Columbia's response to COVID-19.

To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt health care providers from the provisions of the FFCRA.

57. Who is an emergency responder?

For the purposes of employees who may be excluded from paid sick leave or expanded family and medical leave by their employer under the FFCRA, an emergency responder is an employee who is necessary for the provision of transport, care, health care, comfort, and nutrition of such patients, or whose services are otherwise needed to limit the spread of COVID-19. This includes but is not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. This also includes any individual that the highest official of a state or territory, including the District of Columbia, determines is an emergency responder necessary for that state's or territory's or the District of Columbia's response to COVID-19.

To minimize the spread of the virus associated with COVID-19, the Department encourages employers to be judicious when using this definition to exempt emergency responders from the provisions of the FFCRA.

58. When does the small business exemption apply to exclude a small business from the provisions of the Emergency Paid Sick Leave Act and Emergency Family and Medical Leave Expansion Act?

An employer, including a religious or nonprofit organization, with fewer than 50 employees (small business) is exempt from providing (a) paid sick leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons and (b) expanded family and medical leave due to school or place of care closures or child care provider unavailability for COVID-19 related reasons when doing so would jeopardize the viability of the small business as a going concern. A small business may claim this exemption if an authorized officer of the business has determined that:

1. The provision of paid sick leave or expanded family and medical leave would result in the small business's expenses and financial obligations exceeding

available business revenues and cause the small business to cease operating at a minimal capacity;

2. The absence of the employee or employees requesting paid sick leave or expanded family and medical leave would entail a substantial risk to the financial health or operational capabilities of the small business because of their specialized skills, knowledge of the business, or responsibilities; or
3. There are not sufficient workers who are able, willing, and qualified, and who will be available at the time and place needed, to perform the labor or services provided by the employee or employees requesting paid sick leave or expanded family and medical leave, and these labor or services are needed for the small business to operate at a minimal capacity.

59. If I am a small business with fewer than 50 employees, am I exempt from the requirements to provide paid sick leave or expanded family and medical leave?

A small business is exempt from certain paid sick leave and expanded family and medical leave requirements if providing an employee such leave would jeopardize the viability of the business as a going concern. This means a small business is exempt from mandated paid sick leave or expanded family and medical leave requirements only if the:

- employer employs fewer than 50 employees;
- leave is requested because the child's school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons; and
- an authorized officer of the business has determined that at least one of the three conditions described in Question 58 is satisfied.

The Department encourages employers and employees to collaborate to reach the best solution for maintaining the business and ensuring employee safety.

[1] If you are a Federal employee, you are eligible to take paid sick leave under the Emergency Paid Sick Leave Act. But only some Federal employees are eligible to take expanded family and medical leave under the Emergency Family and Medical Leave Expansion Act. Your eligibility will depend on whether you are covered under Title I or Title II of the Family Medical Leave Act. Federal employees should consult with their agency regarding their eligibility for expanded family and medical leave. The Office of Personnel and Management will provide information on federal employee coverage. Additional FAQs regarding public sector employers will be forthcoming.

[2] If you are a Federal employee, the State or local minimum wage would be used to calculate the wages owed to you only if the Federal agency that employs you has broad authority to set your compensation and has decided to use the State or local minimum wage.

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Wage and Hour Division

An agency within the U.S.
Department of Labor

200 Constitution Ave NW
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PAYCHECK PROTECTION PROGRAM (PPP) INFORMATION SHEET:

BORROWERS

The Paycheck Protection Program (“PPP”) authorizes up to \$349 billion in forgivable loans to small businesses to pay their employees during the COVID-19 crisis. ***All loan terms will be the same for everyone.***

The loan amounts will be forgiven as long as:

- The loan proceeds are used to cover payroll costs, and most mortgage interest, rent, and utility costs over the 8 week period after the loan is made; and
- Employee and compensation levels are maintained.

Payroll costs are capped at \$100,000 on an annualized basis for each employee. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.

Loan payments will be deferred for 6 months.

When can I apply?

- Starting April 3, 2020, small businesses and sole proprietorships can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Starting April 10, 2020, independent contractors and self-employed individuals can apply for and receive loans to cover their payroll and other certain expenses through existing SBA lenders.
- Other regulated lenders will be available to make these loans as soon as they are approved and enrolled in the program.

Where can I apply? You can apply through any existing SBA lender or through any federally insured depository institution, federally insured credit union, and Farm Credit System institution that is participating. Other regulated lenders will be available to make these loans once they are approved and enrolled in the program. You should consult with your local lender as to whether it is participating. Visit www.sba.gov for a list of SBA lenders.

Who can apply? All businesses – including nonprofits, veterans organizations, Tribal business concerns, sole proprietorships, self-employed individuals, and independent contractors – with 500 or fewer employees can apply. Businesses in certain industries can have more than 500 employees if they meet applicable SBA employee-based size standards for those industries (click [HERE](#) for additional detail).

For this program, the SBA’s affiliation standards are waived for small businesses (1) in the hotel and food services industries (click [HERE](#) for NAICS code 72 to confirm); or (2) that are franchises in the SBA’s Franchise Directory (click [HERE](#) to check); or (3) that receive financial assistance from small business investment companies licensed by the SBA. Additional guidance may be released as appropriate.

What do I need to apply? You will need to complete the Paycheck Protection Program loan application and submit the application with the required documentation to an approved lender that is available to process your application by June 30, 2020. Click [HERE](#) for the application.

What other documents will I need to include in my application? You will need to provide your lender with payroll documentation.

Do I need to first look for other funds before applying to this program? No. We are waiving the usual SBA requirement that you try to obtain some or all of the loan funds from other sources (i.e., we are waiving the Credit Elsewhere requirement).

How long will this program last? Although the program is open until June 30, 2020, we encourage you to apply as quickly as you can because there is a funding cap and lenders need time to process your loan.

How many loans can I take out under this program? Only one.

What can I use these loans for? You should use the proceeds from these loans on your:

- Payroll costs, including benefits;
- Interest on mortgage obligations, incurred before February 15, 2020;
- Rent, under lease agreements in force before February 15, 2020; and
- Utilities, for which service began before February 15, 2020.

What counts as payroll costs? Payroll costs include:

- Salary, wages, commissions, or tips (capped at \$100,000 on an annualized basis for each employee);
- Employee benefits including costs for vacation, parental, family, medical, or sick leave; allowance for separation or dismissal; payments required for the provisions of group health care benefits including insurance premiums; and payment of any retirement benefit;
- State and local taxes assessed on compensation; and
- For a sole proprietor or independent contractor: wages, commissions, income, or net earnings from self-employment, capped at \$100,000 on an annualized basis for each employee.

How large can my loan be? Loans can be for up to two months of your average monthly payroll costs from the last year plus an additional 25% of that amount. That amount is subject to a \$10 million cap. If you are a seasonal or new business, you will use different applicable time periods for your calculation. Payroll costs will be capped at \$100,000 annualized for each employee.

How much of my loan will be forgiven? You will owe money when your loan is due if you use the loan amount for anything other than payroll costs, mortgage interest, rent, and utilities payments over the 8 weeks after getting the loan. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.

You will also owe money if you do not maintain your staff and payroll.

- **Number of Staff:** Your loan forgiveness will be reduced if you decrease your full-time employee headcount.
- **Level of Payroll:** Your loan forgiveness will also be reduced if you decrease salaries and wages by more than 25% for any employee that made less than \$100,000 annualized in 2019.
- **Re-Hiring:** You have until June 30, 2020 to restore your full-time employment and salary levels for any changes made between February 15, 2020 and April 26, 2020.

How can I request loan forgiveness? You can submit a request to the lender that is servicing the loan. The request will include documents that verify the number of full-time equivalent employees and pay rates, as well as the payments on eligible mortgage, lease, and utility obligations. You must certify that the documents are true and that you used the forgiveness amount to keep employees and make eligible mortgage interest, rent, and utility payments. The lender must make a decision on the forgiveness within 60 days.

What is my interest rate? 0.50% fixed rate.

When do I need to start paying interest on my loan? All payments are deferred for 6 months; however, interest will continue to accrue over this period.

When is my loan due? In 2 years.

Can I pay my loan earlier than 2 years? Yes. There are no prepayment penalties or fees.

Do I need to pledge any collateral for these loans? No. No collateral is required.

Do I need to personally guarantee this loan? No. There is no personal guarantee requirement. ***However, if the proceeds are used for fraudulent purposes, the U.S. government will pursue criminal charges against you.***

What do I need to certify? As part of your application, you need to certify in good faith that:

- Current economic uncertainty makes the loan necessary to support your ongoing operations.
- The funds will be used to retain workers and maintain payroll or to make mortgage, lease, and utility payments.
- You have not and will not receive another loan under this program.
- You will provide to the lender documentation that verifies the number of full-time equivalent employees on payroll and the dollar amounts of payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities for the eight weeks after getting this loan.
- Loan forgiveness will be provided for the sum of documented payroll costs, covered mortgage interest payments, covered rent payments, and covered utilities. Due to likely high subscription, it is anticipated that not more than 25% of the forgiven amount may be for non-payroll costs.
- All the information you provided in your application and in all supporting documents and forms is true and accurate. Knowingly making a false statement to get a loan under this program is punishable by law.

- You acknowledge that the lender will calculate the eligible loan amount using the tax documents you submitted. You affirm that the tax documents are identical to those you submitted to the IRS. And you also understand, acknowledge, and agree that the lender can share the tax information with the SBA's authorized representatives, including authorized representatives of the SBA Office of Inspector General, for the purpose of compliance with SBA Loan Program Requirements and all SBA reviews.

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The **Families First Coronavirus Response Act (FFCRA or Act)** requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

► PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- ⅔ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 12 weeks of paid sick leave and expanded family and medical leave paid at ⅔ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

► ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). *Employees who have been employed for at least 30 days* prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to **telework**, because the employee:

- | | |
|---|---|
| <ol style="list-style-type: none">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); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
|---|---|

► ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:
1-866-487-9243
TTY: 1-877-889-5627
dol.gov/agencies/whd



WH1422 REV 03/20