



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

FAQs:

**The Families First Coronavirus Response Act and Other Employment Questions
Related to the COVID-19 Outbreak**

The Families First Coronavirus Response Act

Please see [this Legal Alert](#) for general information about the Families First Coronavirus Response Act (FFCRA).

Q: If we were not previously required to comply with the Family and Medical Leave Act (FMLA) because our organization does not meet the size requirements, do we now have to comply due to the FFCRA?

A: No. The FFCRA did amend the Family and Medical Leave Act but, for employers who were not previously covered by the FMLA, only the specific requirements of the new law (childcare leave and paid sick leave related to the public health emergency) and not the full FMLA requirements apply.

Q: Does the paid childcare leave and sick leave under the FFCRA apply to employees who work less than full-time and whose hours are irregular?

A: The paid childcare leave applies to all employees who have been employed for 30 days or more, regardless of the number of hours they work. The new paid sick leave law applies to all employees, regardless of the length of their service or the number of hours they work. Under the sick leave law, the calculation of pay differs depending on the employee's regular hours worked.

Q: How do the new paid leave requirements interact with other paid leave benefits we provide to employees?

A: The paid childcare leave and the paid sick leave are in addition to any paid benefits organizations already provided to employees.

Q: Can the organization require employees to use accrued vacation or sick leave first?

A: With regard to the paid sick leave law, employers cannot require employees to use other paid leave before using the paid sick leave. With regard to the childcare leave, employees may elect to use other accrued paid leave time (including the new sick leave pay) during the unpaid period, but employers cannot require it.

Q: If employees are allowed or encouraged to work from home but cannot do so because of childcare needs, are they eligible for paid leave under the childcare leave provisions?

A: Yes. If an employee is unable to work (including teleworking) due to childcare needs created by the pandemic, that employee is eligible for paid childcare leave under the FFCRA.

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Q: Under the childcare leave requirement, if the employee has been paid \$10,000 before the 12 weeks ends, does the leave protection end after the \$10,000 mark?

A: No – the employee is permitted to take up to twelve (12) weeks of job-protected leave. If the employee has been paid \$10,000 before the leave ends, the pay would stop but the leave may continue and continue to be protected.

Q: Can PBPA provide a form policy and other forms to be used by employees who are requesting these benefits?

A: Yes! We have a form policy, form FFCRA childcare leave request and a form FFRCA sick leave request available, just use the links below. In addition, Fisher Phillips LLP has issued these additional [forms](#) that may be helpful. Please contact your PBPA attorney if you have questions about these forms.

[FFCRA Form Policy](#) [Form EFMLA Request](#) [Form Emergency Sick Leave Request](#)

Hiring New Employees

Q: If I am hiring an employee, do I still have to comply with I-9 and E-Verify requirements even if the organization is telecommuting or the office is not open?

A: Yes - the Department of Homeland Security has provided guidance for employers on how to complete I-9 forms (which formerly had to be completed in person) and on changes to the E-Verify system during this crisis. See this [link](#) with an update from Troutman Sanders LLP for additional information.

Medical Inquiries to Employees

Q: Can you ask employees about COVID-19 symptoms or take their temperature?

A: Yes - for those employers who are subject to the Americans with Disabilities Act (including employers with 15 employees or more), the Rehabilitation Act (federal contractors), and their rules about medical inquiries, the Equal Employment Opportunity Commission has issued this [guidance](#) regarding when and why employers can ask about symptoms, take employee temperature, or require medical information.

Work Reduction, Layoffs and Shutting Down

Q: If the organization reduces hours, could this impact the exempt/nonexempt status of employees?

A: Yes – in order to be exempt under the Fair Labor Standards Act (FLSA), an employee must satisfy the duties test for the specific exemption, be paid on a salaried basis, and meet the minimum salary requirements. If any of these items change, the employee may no longer be exempt from the minimum wage and overtime requirements of the FLSA.

Q: If the organization ceases operations or shuts down, what pay is required for employees?

A: Non-exempt employees must be paid for all hours they have worked. For exempt employees, pay is required through the full workweek during which the employee last performed any work.

Q: Are unemployment benefits available to employees who experience reduced hours, temporary layoff (sometimes called “furloughs”), or termination for lack of work?

A: Please see the legal alert related to partial unemployment claims through the Georgia Department of Labor for hour reductions and temporary layoffs or furloughs: [Read alert](#).

If employees are terminated for lack of work without an expectation that they will be called back to work, the employees may be eligible to collect unemployment benefits. A Georgia Separation Notice must be issued to all employees who leave employment. You can find the Separation Notice by searching the DOL website under Forms and Publications for this notice or clicking this [link](#).

Additional Resources

For additional information about employment and benefits, please see this [FAQ](#) published by Ogletree Deakins, which is being updated regularly.

Please see this guidance from Venable LLP related to tips for managing employees who are telecommuting: [Read guidance](#).

Please see this legal alert from Nelson Mullins Riley & Scarborough LLP related to employee benefits, leaves and reductions in force: [Read alert](#)

For other information about nonprofits and the impact of Coronavirus, please see this [link](#) on our website. Please contact your PBPA attorney if we can be of any assistance to you.