OVERVIEW OF PAID SICK LEAVE AND FAMILY LEAVE PROVISIONS IN THE
COVID-19 RELIEF BILL


When do the EFMLA and the EPSLA take effect?
The EFMLA and the EPSLA take effect on April 2, 2020, and expire on December 31, 2020.

What employees are included in the EPSLA?
All employees who are unable to work or telecommute during quarantine including; full-time, part-time, and student employees are immediately eligible. Leave is calculated based on the employee’s regular number of hours they would normally be scheduled to work in a week.

What employees are included in the EFMLA?
Employees must be employed for 30 days prior to the request for EFMLA. Leave is calculated based on the employee’s regular number of hours they would normally be scheduled to work in a week at 2/3 pay.

Is there a waiting period before I get paid?
There is no waiting period for employees who qualify for EPSLA (two weeks of pay) for self-quarantine purposes at full pay and 2/3 pay for care of a quarantined family member or a child out of school or daycare.

What if I’m sick longer than two weeks or I’m required to quarantine more than once?
The first two weeks of EPSLA is paid at the full-time rate. (either 100% for self-care or 2/3 pay for care of a family member) Beyond two weeks, the employee transfers to EFMLA and is paid at 2/3 their rate of pay regardless of self or family member.

Does use of regular FMLA affect my use of EFMLA?
Yes, the combined total of both FMLA and EFMLA cannot exceed 12 weeks.

Can an employer exclude certain employees from coverage under the EFMLA or the EPSLA?
Yes; the EFMLA and the EPSLA allow an employer to exclude the following employees from coverage under the EPSLA:

- An emergency responder;
- A MD, DO, PA, NP, nurse midwife, clinical social worker, podiatrist, dentist, clinical psychologist, optometrist, or chiropractor who is licensed and performing services within the scope of the provider’s practice; and
- Any health care provider from whom an employer or the employer’s group health plan’s benefit manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

Note that the EFMLA and the EPSLA authorize the Secretary of Labor to exclude certain health care providers and emergency responders from coverage under both laws.
What does the Emergency Paid Sick Leave Act (EPSLA) require of the Southern Utah University?

In general, the EPSLA requires SUU to provide an employee with limited paid sick leave if the employee is unable to work (or telecommute) due to any of the following circumstances related to COVID-19:

1. The employee is subject to a federal, state, or local quarantine or isolation order;
2. The employee has been advised by a health care provider to self-quarantine;
3. The employee is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. The employee is caring for an individual who (a) is subject to a federal, state, or local quarantine or isolation order or (b) has been advised by health care provider to self-quarantine;
5. The employee is caring for a minor child if the child’s school or place of care has been closed or the child’s child care provider is unavailable; or
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services.

A full-time employee who meets one of the six conditions above is eligible for 80 hours of paid sick leave. A part-time employee is eligible for up to 80 hours of paid time pro rata, depending on how many hours the employee would normally work, on average, in two weeks.

- EPSLA leave is calculated based on an employee’s regular rate of pay and the number of hours an employee would normally be scheduled to work, unless the employee is using leave for a condition described in 4, 5, or 6 above, in which case the employee is entitled to two-thirds of the employee’s regular rate.
- If an employee is using the leave for a condition described in 1, 2, or 3 above, paid sick leave is capped at $511 per day ($63.87 regular pay per hour) and $5,110 in the aggregate. If an employee is using the leave for a condition described in 4, 5, or 6 above, the paid sick leave is capped at $200 per day ($33.33 regular pay per hour) and $2,000 in the aggregate.
- If a part-time employee has a varied schedule and SUU cannot determine the number of hours the employee would have worked over the leave period, the employee’s pay rate during the leave period equals the average number of hours the employee was scheduled to work per day over the 6-month period prior to EPSLA leave. If the employee did not work over this period, SUU is required to calculate the employee’s hours based on the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.
- EPSLA leave is immediately available for use by an employee, regardless of how long the employee has been employed by SUU.
- SUU is prohibited from requiring an employee to use paid leave before using EPSLA leave.
- Paid sick time under the EPSLA does not carry over from one year to the next.

All employees taking paid time off due to COVID must complete the SUU COVID-19 PAID SICK LEAVE REQUEST FORM
What does the Emergency Family Medical Leave Expansion Act (EFMLA) require of the Southern Utah University?

In general, the EFMLA requires SUU to permit an employee—part-time or full-time—to take up to 12 weeks of leave to care for a minor child if the child’s school or place of care has been closed, or the employee’s child care provider is unavailable, as a result of a COVID-19 emergency declaration.

- An employee is eligible for EFMLA leave only if the employee has been employed by SUU for at least 30 calendar days.
- The first 10 days of leave may consist of unpaid leave, but the employee may elect to substitute any accrued vacation leave, personal leave, or medical or sick leave for the unpaid leave.
- After 10 days, SUU is required to pay the employee no less than two-thirds of the employee’s regular rate of pay for the number of hours the employee would normally be scheduled to work.
- EFMLA paid leave is capped at $200 per day and $10,000 in the aggregate.
- If an employee has a varied schedule and SUU cannot determine the number of hours the employee would have worked over the leave period, the employee’s pay rate during the leave period equals the average number of hours the employee was scheduled to work per day over the 6-month period prior to EFMLA leave. If the employee did not work over this period, SUU is required to calculate the employee’s hours based on the reasonable expectation of the employee at the time of hiring of the average number of hours per day that the employee would normally be scheduled to work.

Does EFMLA change the eligibility for traditional FMLA?

Eligibility for traditional FMLA still requires 1250 hours of work in the last 12 months of work and 1 year of employment.

Finally, EFMLA leave is job protected, which means SUU is required to make reasonable efforts to restore an employee to the same or an equivalent position when the employee returns to work, with equivalent pay, benefits, and other terms and conditions of employment.