



COVID-19: What are Your Options as an Employer?

As a Catholic non-profit entity, we do not participate in the unemployment insurance program. This should have been disclosed to your employees at the time of hire. As such, your employees are not eligible for unemployment benefits through the state of South Dakota. Knowing this information, as decisions are being made about the future employment status of your staff, the Diocese encourages you to look at your long term needs and the resources you have available.

1. If there are ways to utilize the staff, in ways they may not currently be working, please be encouraged to explore those options. Working a reduced number of hours is better than working no hours.
2. If working in some needed area is not an option, does the employee have enough paid leave (vacation and sick leave) to continue on payroll through April 2nd when the Families First Coronavirus Response Act (FFCRA) becomes effective?
 - a. The FCCRA contains tax credits for employers who pay emergency sick leave and emergency family and medical leave. Likewise, employees will NOT have payroll taxes withheld from emergency sick leave and emergency family and medical leave.
 - b. Employers need to carefully track from which category the employee is being paid, as this will be used for reporting purposes when applying to receive the tax credit for these payments. Samples of tracking sheets will soon be made available to you.

If the measures above are not financially possible, then what are your options?

1. **Furlough** is a temporary reduction in pay and hours usually caused by economic or operational conditions. It is basically an unpaid leave of absence. The employee is still considered actively employed and continues with benefits. Typically, furloughs are for a fixed period of time although employers are not required to set a specific time frame.
 - a. In this instance, you would use a furlough to hang on to employees that you would like to return to your parish once the situation has improved.
 - b. Employees who are furloughed before the FFCRA takes effect (April 2nd 2020) may be able to take advantage of the paid leave under the FFCRA if they meet eligibility requirements.
2. **Lay Off** is a separation from payroll because there is no work for the employee to perform. The employee would be eligible for any of their unused vacation accrual upon separation. In the instance of a Lay-Off you could inform the employee of the possibility of reapplying for open positions in the event they become available.
 - a. Employment would stop and benefits would end on the last day of the month in which the Lay-Off occurred.



- b. Employees who are subject to a Lay-Off before FFCRA takes effect (April 2, 2020) will NOT be eligible for the emergency paid leave under the FFCRA.
3. **Termination** is a separation from payroll because there is no work for the employee to perform. The employee would be eligible for any of their unused vacation accrual upon separation. In the instance of a termination there is no expectation of the employee returning to the parish for employment at the end of the pandemic.
 - a. This option is last resort, and normal Diocesan protocol for termination must be followed, including proper HR consultation, documentation and notification
 - b. Employment would stop immediately and benefits would end on the last day of the month in which the termination occurred.

How to Pay Employees:

Even during these unprecedented times, Department of Labor regulations still apply. The method you use to pay an employee is dependent on their current classification of “Exempt” or “Non-Exempt.”

Non-Exempt (Hourly) employees should be paid for the number of hours they actually work either in the office or via telework. Employer paid leave and emergency paid leave are calculated separately. See the instructions under “How to Administer the Families First Coronavirus Act.”

Exempt (Salaried) employees must receive their regular rate of pay for a week in which they do any amount of work. You may NOT reduce their pay due to a reduced number of hours worked in a specific week.

- Employers do have the option to reduce the exempt employee’s base pay on an annualized basis, or
- Employers have the option to Furlough exempt employees in full week increments.

PLEASE NOTE:

There continues to be measures introduced in the legislature for additional financial resources to help employers through this crisis. We are monitoring the developments as they occur and will share applicable information with you as soon as we have it. Please continue to monitor the Diocesan website frequently for updates.



How to administer the Families First Coronavirus Response Act (FFCRA):

President Trump signed into law an emergency relief package to provide for paid leave for those affected by the coronavirus called the Families First Coronavirus Response Act (FFCRA). Effective April 2, 2020 any employer that employs less than 500 employees is bound by the FFCRA. This includes all of the parishes and schools in the Diocese of Sioux Falls.

PAID SICK LEAVE

Qualified Employees:

Qualified employees include any person included in your payroll, whether they are full time or part time, salaried or hourly.

Qualifying Reasons to use FFCRA:

Employees are unable to work or telework for the following reasons:

1. To comply with a federal, state or local quarantine or isolation order related to COVID 19
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID 19
3. The employee is experiencing symptoms of COVID 19 **and** seeking a medical diagnosis
4. To care for any individual who is subject to an order as described in #1 above, or has been advised as described in #2.
5. To care for the employee's son or daughter if the school or place of care is closed or the childcare provider is unavailable, due to COVID 19 precautions.
6. The employee is experiencing any other substantially similar health conditions specified by the Secretary of Health and Human Services.

Amount of Leave employers are required to provide:

- Full time employees – 80 hours of emergency paid sick leave.
- Part-time employees – entitled to emergency paid sick leave at their average number of hours they work in a two week period.

This paid sick time does not carry over from one year to the next. It is NOT paid upon separation.

The FFCRA does not change your existing sick leave policy. An employee may choose to use the FFCRA paid sick leave first for the qualifying reasons listed above. You cannot require them to first use employer provided sick leave for the qualifying reasons listed above.



FFCRA: PAID SICK LEAVE		
Category of Leave	Amount of Paid Leave	Duration of Paid Leave for Full Time Employee
Sick or Seeking Care for Yourself or complying with quarantine or isolation order	Paid at normal pay rate not to exceed \$511 per day	2 weeks (80 hours)
Providing care for a sick family member or child whose school/daycare closed	Paid at 2/3 of normal pay rate not to exceed \$200 per day	2 weeks (80 hours)

EMERGENCY FAMILY AND MEDICAL LEAVE

In addition to the FFCRA Paid Sick Leave, there is a section of the law that allows for emergency family and medical leave.

Qualified Employees:

Qualified employees include any person, included in your payroll thirty (30) days or more, whether they are full time or part time, salaried or hourly.

Part-time employees are entitled to emergency family and medical leave at the average number of hours they work over a two week period.

Qualifying Reasons to use FFCRA:

Employees are unable to work or telework for the following reason:

To care for the employee’s son or daughter under the age of 18, if the child(ren)’s school or place of childcare has been closed or the child care provider is unavailable due to a public health emergency.

Amount of Leave employers are required to provide:

The first 10 days of leave are unpaid through the FFCRA. However, in this instance, the employee may choose to use their employer paid leave during this time.

FFCRA: Emergency Family and Medical Leave		
Time Frame	Amount of Paid Leave	Duration of Paid Leave for Full Time Employee
Day 1 – 10	\$ 0	Employee may elect to substitute paid leave for this period.



Day 11 - 84	Paid 2/3 of normal pay rate not to exceed \$200 per day.	84 days or until the public health emergency has been lifted, whichever is less.
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