

Thorny Leave Issues and COVID-19

Association of Corporate Counsel National
Capital Region

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Littler

ACC Association of
Corporate Counsel
— NATIONAL CAPITAL REGION —

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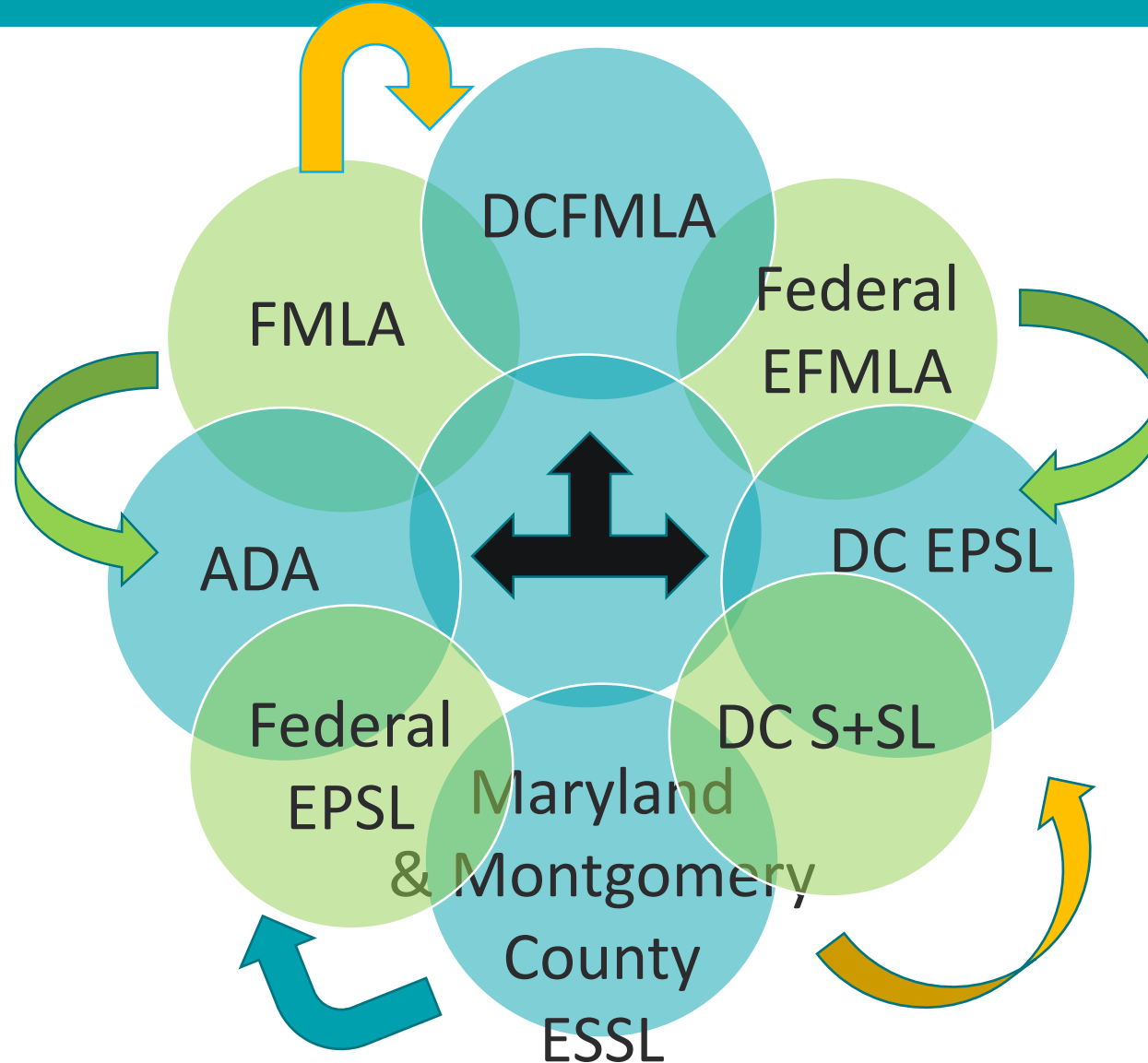
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Agenda

- Overview of New & Expanded Leave laws
- Thorny Leave Issues



Time Off Requests: Where Leave Laws Converge



The Silo Approach

FFCRA
(EPSL and
EFMLA)

FMLA

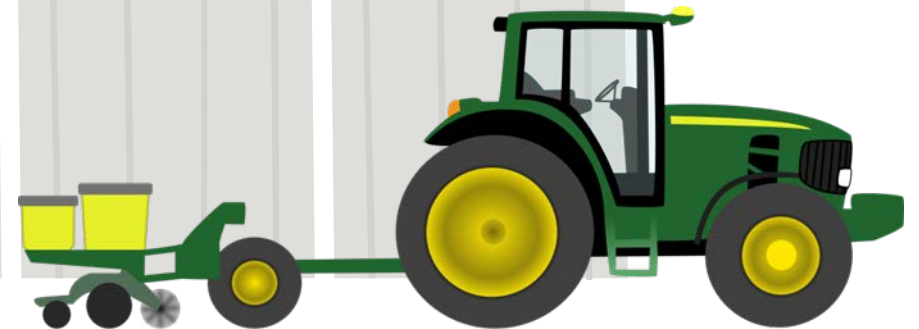
DC
FMLA

Sick & Safe
Leave

DC
Emergency
Paid Leave

ADA

Your Policies



Families First Coronavirus Response Act

- Requires covered employers to extend paid sick leave and/or paid FMLA leave to employees under defined circumstances
- Dollar-for-dollar tax credit available to reimburse employers
- Effective April 1, 2020 - December 31, 2020



Which Businesses are Covered by the FFCRA?

Is Your Organization Covered by FFCRA?

- Private employers with **fewer than 500 employees** (so 499 and below), and public entities of any size (some differences for federal government employees)
- All employees of joint employers and integrated employers count
- Employers should also count full-time, part-time, those on leave, temps (including those from an agency)
- Some limited relief for smallest employers



So When and How Do I Count to 500?



- This is a live count “dependent on the number of employees at the time an employee would take leave.” - DOL Preamble to Regulations
- Practical effect: if you’re close to 500, whether or not you are a covered employer could change from day to day
- Sunsets December 31, 2020

What FFCRA Leave Benefits Do We Have to Provide?

Overview of FFCRA Paid Leave Provisions

- **Emergency Paid Sick Leave (“EPSL”)**
- **Emergency Paid FMLA (“FMLA+”)**

Emergency Paid Sick Leave Act (EPSL)

Employee is eligible if unable to **work or *telework*** because:

1. Employee subject to a quarantine or isolation order related to COVID-19
2. Employee advised by a health care provider to self-quarantine because of COVID-19
3. Employee experiencing symptoms of COVID-19 and is seeking a medical diagnosis
4. The employee is caring for an individual subject or advised to quarantine or isolation
5. The employee is caring for a son or daughter whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precaution (like FMLA+)
6. The employee is experiencing substantially similar conditions as specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

EPSL Wage Replacement



2 weeks

- For self-care reasons:
 - 100% pay
 - Capped at \$511/day, per person, or aggregate of \$5,110 per person
- For other care:
 - 2/3 pay
 - Capped at \$200/day, per person, or aggregate of \$2,000 per person

Traditional FMLA

- 50 employees within 75 miles of worksite
- Employee must have 1 year service and 1250 hours worked
- Qualifying Reason
 - New child bonding
 - Serious health condition
 - Spouse, child, parent with a serious health condition
 - Military-related exigency or leave
- 12 weeks leave
- Unpaid



EFMLA: Qualifying Reason



Due to an inability to work or telework to care for a son or daughter if the child's school or place of care is closed, or child care provider is unavailable, due to COVID-19

EFMLA: Coverage / Benefits

Employee must be employed at least
30 calendar days

12 weeks of partially paid leave

- First 10 days unpaid
- 2/3 of the employee's regular rate
 - Capped at \$200/day, per person, and an aggregate of \$10,000, per person



Overview of FFCRA Paid Leave Provisions

- **Emergency Paid Sick Leave (“EPSL”)**

- No eligibility requirements—immediately upon hire
- Up to 80 hours (~ first 10 days)
- 6 different reasons
- Full pay or 2/3 pay (depending on reason)—subject to monetary caps

- **Emergency Paid FMLA (“FMLA+”)**

- Must be employed 30 calendar days (no year of service, no 1,250 hours, no 50-in-a-75-mile-radius)
- Up to 12 weeks (~ days 11-60)
- 1 reason only—school closure/childcare unavailability
- Weeks 1 -2 unpaid by this provision
- Weeks 3 – 12: 2/3 pay—subject to monetary caps

Don't Forget State and Local Leave Laws

DCFMLA

Who:

- Employers with at least 20 full time employees in the District of Columbia
- Employees who have worked at least one year and 1,000 hours in that time

What:

- 16 weeks unpaid time off to care for employees own “serious health condition,”
- 16 weeks unpaid time off to care for employee’s family member’s “serious health condition

When:

- Every two years

Note: employees cannot be required to use PTO

DC Emergency FMLA Expansion

- “Declaration of Emergency” Leave under DCFMLA: Employees are entitled to DOE leave when an employee is unable to work (1) during a period of time in which the mayor has declared a public health emergency and (2) the mayor, other federal or state official, or a medical professional, has ordered or recommended that the employee self-isolate or quarantine.
- Under these circumstances, the law further suspends the one-year-of-employment and 1,000-hours-of-work requirements for eligibility. The covered leave is indefinite during the period of the public health emergency and applies to all employers in the District regardless of how many employees it employs.

Coming Soon: District of Columbia Universal Paid Leave

- Enacted in 2017, benefits begin July 1, 2020
- D.C. Government-administered paid leave to all D.C. employees through Office of Paid Family Leave (OPFL)
- Benefits include:
 - 8 weeks to bond with a new child (within a year of the qualifying event)
 - 6 weeks to care for a family member with a serious health condition
 - 2 weeks to care for your own serious health condition
- Maximum weekly benefit of \$1,000, maximum yearly benefit of 8 weeks' paid leave
- Eligible: Any person who is employed by a covered employer who has earned income as a covered employee during at least one of the past five completed quarters, or a self-employed individual who has opted into the program
- Not job protected, but retaliation for taking leave prohibited

Coming Soon: District of Columbia Universal Paid Leave

- Paid leave may run concurrently with DCFMLA or FMLA (but not SSLA)
- Cannot receive both paid leave and unemployment compensation
- Ineligible if receiving long-term disability payments
- Short-term, employer-provided paid leave benefits including PTO and paid parental leave is determined by employer policies; however, worker ineligible for DC Paid Leave if earning income by performing regular and customary work



Don't forget about mandatory (non-COVID) paid sick leave laws!

Government Contractors – Executive Order Establishing Paid Sick Leave for Federal Contractors

- Executive Order 13706 requires parties that enter into covered contracts with the federal government to provide covered employees with **up to seven days of paid sick leave** annually, including paid leave allowing for family care
- DOL guidance suggests this leave is available if the employee or a family member is sick with COVID-19 or seeking care related to COVID-19

Don't forget about mandatory (non-COVID) paid sick leave laws!

Maryland /Montgomery County Employers

Employees can take leave:

- (1) To care for or for treatment of an employee or family member's mental or physical illness, injury, or condition
- (2) Preventive medical care for an employee or family member.
- (3) For "safe" time purposes due to domestic violence, sexual assault, or stalking committed against the employee or family member, which may include medical or mental health attention; and related reasons
- (4) Leave can also be used for maternity or paternity leave
- (5) Montgomery County: The closure of a place of business due to a public health emergency;
- (6) Montgomery County: The closure of a school or childcare center of a family member due to a public health emergency

Under the Maryland Act, "family members," generally speaking, include children, grandchildren, grandparents, parents (including in-laws), siblings, and spouses.

For smaller employers, some leave may be unpaid

Don't forget about mandatory (non-COVID) paid sick leave laws!

District of Columbia:

Eligible employees may use paid sick and safe time for the following reasons:

- Absence from work for their own, or a family member's, illness, injury or medical condition
- Time needed if an employee or an employee's family member is a victim of stalking, domestic violence, or sexual abuse
- Family member is broadly defined as a spouse, domestic partner, parents of a spouse, children (including foster children and grandchildren), spouses of children, parents, brothers and sisters, and the spouses of brothers and sisters
- Eligibility -- to be eligible to earn paid sick leave, an employee must complete 90 days of service with his or her employer

DC Emergency Paid Sick Leave

- A temporary expansion (until July 9, 2020) of the District's paid sick leave law
- Requires employers with between 50 and 499 employees to provide "declaration of emergency" (DOE) leave for any reason employees might take leave under the federal Families First Coronavirus Response Act (FFCRA), including when an employee is unable to work because (a) the employee has been recommended to self-isolate or has been required to quarantine following exposure to, or while experiencing symptoms of, COVID-19; (b) the employee must care for an at-risk family member for exposure or symptoms related to COVID-19; or (c) the employee must care for a child whose school or place of care has closed
- The law is a temporary expansion of D.C.'s Accrued Sick and Safe Leave Act

But wait, there's more!

There are at least 30 other jurisdictions
(state and local) nationwide
with mandatory paid sick leave laws

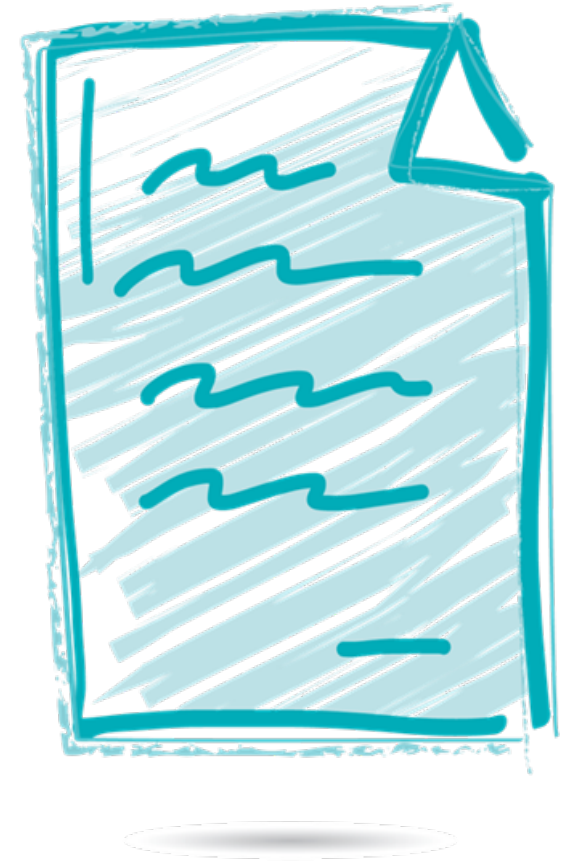
Americans with Disabilities Act (ADA): Leave as Accommodation



- A reasonable accommodation may be a leave of absence
- Leave time will vary case-by-case
- Leave as accommodation if reasonable and no undue hardship to employer
- Requires an interactive process with the employee and possibly his/her healthcare provider – do not forget to document!
- State laws typically have similar protections, often cover smaller employers

Your Policies

- PTO
- Sick
- Vacation
- Other “personal” or unpaid leave
- What do your policies say about:
 - Qualifying reasons?
 - Mandating use?
 - Run concurrently with other leave?



Let's Get to Work!

Scenario #1: “I’m positive that I’m (COVID-19) positive.”

**Employee tests positive for
COVID-19 AND is under a
government issued order of
quarantine/isolation**

	YES	NO
Paid Sick	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
DCMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #1: “I’m positive that I’m (COVID-19) positive.”

Employee tests positive for
COVID-19 AND is under a
government issued order of
quarantine/isolation

	YES	NO
Paid Sick	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FMLA	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>
EPSL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #2: “I’m feeling COVID-19ish.”

Employee has symptoms of COVID-19, but no positive test and is not under a government issued order of quarantine/isolation

	YES	NO
Paid Sick	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #2: “I’m feeling COVID-19ish.”

Employee has symptoms of COVID-19, but no positive test and is not under a government issued order of quarantine/isolation

	YES	NO
Paid Sick	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/> MAYBE
EPSL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #3: High Risk Employees

Employee is “high risk” because
of age or because he or she is
immunocompromised AND does
not want to work

	YES	NO
Paid Sick	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #3: High Risk Employees

Employee is “high risk” because
of age or because he or she is
immunocompromised AND does
not want to work

	YES	NO
Paid Sick	<input type="checkbox"/> MAYBE	<input type="checkbox"/> MAYBE
FMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EPSL	<input type="checkbox"/> MAYBE	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input type="checkbox"/> MAYBE	<input type="checkbox"/> MAYBE
DCFMLA	<input type="checkbox"/> MAYBE	<input type="checkbox"/> MAYBE
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/> MAYBE

Scenario #4: “My (family member, roommate, house guest) has COVID-19.”

Employee is caring for a family member who is positive for COVID-19

	YES	NO
Paid Sick	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #4: “My (family member, roommate, house guest) has COVID-19.”

Employee is caring for a family member who is positive for COVID-19

	YES	NO
Paid Sick	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/> MAYBE	<input type="checkbox"/>
EPSL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #5: “My child’s school or daycare is closed because of COVID-19.”

Employee needs time off because his or her child’s school or place of care is closed

	YES	NO
Paid Sick	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #5: “My child’s school or daycare is closed because of COVID-19.”

Employee needs time off because his or her child’s school or place of care is closed

	YES	NO
Paid Sick	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EPSL	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

**We are Ready to Bring Some People
Back from Furlough!**

Scenario #6: I'm Self-Quarantining

You call Worker A to say the company is ready to begin recalling workers from furlough. Worker A states they cannot return to work because their health care provider has directed them to self quarantine. Is the worker eligible for leave?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #6: I'm Self-Quarantining

You call Worker A to say the company is ready to begin recalling workers from furlough. Worker A states they cannot return to work because their health care provider has directed them to self quarantine. Is the worker eligible for leave?

	YES	NO
Sick Leave	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/> MAYBE	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/> MAYBE	<input type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #7: I'm Dad All Day Now

You're ready to begin recalling workers from furlough. Worker B states he cannot return to work full time because the schools are closed and there is no one to care for the children. Is the worker eligible for leave?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #7: I'm Dad All Day Now

You're ready to begin recalling workers from furlough. Worker B states he cannot return to work full time because the schools are closed and there is no one to care for the children. Is the worker eligible for leave?

	YES	NO
Sick Leave	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EPSL	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>
EFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>
Your Policies	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #8A: I'm Not Well

Worker C states he will not return to work at the office because he's been experiencing more frequent small seizures, possibly because he hasn't been able to see his physician for regular monitoring. Is the worker eligible for leave?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #8A: I'm Not Well

Worker C states he will not return to work at the office because he's been experiencing more frequent small seizures, possibly because he hasn't been able to see his physician for regular monitoring. Is the worker eligible for leave?

	YES	NO
Sick Leave	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #8B: I'm Not Well

Can we “skip” Worker C and leave him on furlough?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #8B: I'm Not Well

Can we “skip” Worker C and leave him on furlough?

	YES	NO
Sick Leave	<input checked="" type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
FMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

**We're Going to Reopen the Office!
(With Proper Social Distancing and
Cleaning Protocols, of course)**

Scenario #9: Leave Me Out of This!

Worker D states he cannot return to work because he is afraid of being infected by COVID-19 and bringing the disease home to his family. Now what?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #9: Leave Me Out of This!

Worker D states he cannot return to work because he is afraid of being infected by COVID-19 and bringing the disease home to his family. Now what?

	YES	NO
Sick Leave	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FMLA	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>
DCFMLA	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>
Your Policies	<input checked="" type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #10: I'm Not Well

Worker E states she cannot return to work because she suffered a rotator cuff tear while installing a printer in her home office, and this prevents her from driving to work. Is the worker eligible for leave?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #10: I'm Not Well

Worker E states she cannot return to work because she suffered a rotator cuff tear while installing a printer in her home office, and this prevents her from driving to work. Is the worker eligible for leave?

	YES	NO
DCFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EPSL	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA		<input checked="" type="checkbox"/>
DC S+SLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DC EPSL	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

Scenario #11: I'm Good, Thanks

Worker F states he is doing just fine on unemployment and doesn't want to return to work at this time. Also, he is anxious about becoming infected by COVID-19. Can he remain on furlough?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input type="checkbox"/>
EPSL	<input type="checkbox"/>	<input type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input type="checkbox"/>
ADA	<input type="checkbox"/>	<input type="checkbox"/>
FMLA	<input type="checkbox"/>	<input type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input type="checkbox"/>
Your Policies	<input type="checkbox"/>	<input type="checkbox"/>

Scenario #11: I'm Good, Thanks

Worker F states he is doing just fine on unemployment and doesn't want to return to work at this time. Also, he is anxious about becoming infected by COVID-19. Can he remain on furlough?

	YES	NO
Sick Leave	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EPSL	<input type="checkbox"/>	<input checked="" type="checkbox"/>
EFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
ADA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
FMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
DCFMLA	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Your Policies	<input type="checkbox"/> MAYBE	<input type="checkbox"/>

Quick Leave Laws Guide

DC PAID SICK & DOE (COVID-19)

YES



NO



- Amount of paid leave depends on size of employer
- Up to 80 hours paid for FTE if employed 15 days
- Employers 50 – 499 workers covered
- Care for self or family member with COVID-19
- Self-isolation or quarantine
- Care for school child while place of care is closed

EFMLA

YES



NO



- Fewer than 500 employees/employed for at least 30 calendar days
- Up to 12 weeks of leave (no more than 12 total with FMLA)
- Qualifying Reason: employee unable to work or telework because of need to care for minor child whose school or place of care closed/unavailable due to COVID-19

Employer Policies

YES



NO



- Employer-Specific
- Leave time will vary
- Intersection with other leave depends on (1) type of leave; and (2) language contained in policy or collective bargaining agreement

FMLA

YES



NO



- At least 50 employees within 75 miles of worksite
- Up to 12 weeks
- Qualifying Reason: (1) new child bonding; (2) serious health condition; (3) spouse, child, parent with a serious health condition; (4) military-related exigency or leave

ADA/ Local Human Rights Law

YES



NO



- Leave time will vary case-by-case
- Qualifying Reason: leave as accommodation if reasonable and no undue hardship to employer

DCFMLA

YES



NO



- At least 20 employees in DC except DOE leave
- Up to 16 weeks for own serious health condition and 16 weeks for family every 2 years
- Qualifying reason: all FMLA plus during a public health emergency and (2) medical professional or mayor or other public health professional has recommended or ordered self-isolation or quarantine.
- 1000 hours and 1 year tenure to qualify *except DOE leave*

EPSL

YES



NO



- Fewer than 500 employees
- Up to 2 weeks (Reason 1-3, full pay; Reason 4-6, 2/3 pay)
- Qualifying Reason: employee unable to work or telework because of these COVID-19-related reasons: (1) government isolation or quarantine order; (2) health care provider advises isolation/quarantine; (3) symptoms and seeking diagnosis; (4) caring for person subject to isolation/quarantine; (5) school or child care provider is closed/unavailable; (6) substantially similar condition

Disability

YES



NO



DC UFL

YES



NO



- All D.C. employers
- Up to 8 weeks of leave
- Qualifying Reason: (1) care for family member due to his/her serious health condition; (2) new child bonding; (3) to care for one's own serious health condition
- Paid by DC government agency from funds collected from employers

Quick Leave Laws Guide

☐

YES

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NO

☐

EFMLA

YES

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NO

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- Fewer than 500 employees/employed for at least 30 calendar days
- Up to 12 weeks of leave (no more than 12 total with FMLA)
- **Qualifying Reason:** employee unable to work or telework because of need to care for minor child whose school or place of care closed/unavailable due to COVID-19

Employer Policies

YES

☐

NO

☐

- **Employer-Specific**
- **Leave time will vary**
- Intersection with other leave depends on (1) type of leave; and (2) language contained in policy or collective bargaining agreement

FMLA

YES

☐

NO

☐

- At least 50 employees within 75 miles of worksite
- Up to 12 weeks
- **Qualifying Reason:** (1) new child bonding; (2) serious health condition; (3) spouse, child, parent with a serious health condition; (4) military-related exigency or leave

ADA/
Local Human
Rights Law

YES

☐

NO

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- Leave time will vary case-by-case
- **Qualifying Reason:** leave as accommodation if reasonable and no undue hardship to employer

☐

YES

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NO

☐

EPSL

YES

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NO

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- Fewer than 500 employees
- Up to 2 weeks (Reason 1-3, full pay; Reason 4-6, 2/3 pay)
- **Qualifying Reason:** employee unable to work or telework because of these COVID-19-related reasons: (1) government isolation or quarantine order; (2) health care provider advises isolation/quarantine; (3) symptoms and seeking diagnosis; (4) caring for person subject to isolation/quarantine; (5) school or child care provider is closed/unavailable; (6) substantially similar condition

Disability

YES

☐

NO

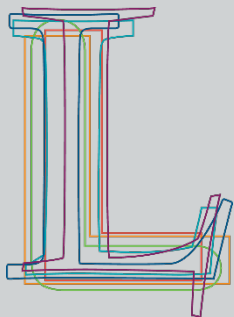
☐☐

YES

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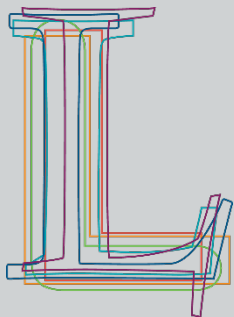
NO

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Questions?

This information provided by Littler is not a substitute for experienced legal counsel and does not provide legal advice or attempt to address the numerous factual issues that inevitably arise in any employment-related dispute. Although this information attempts to cover some major recent developments, it is not all-inclusive, and the current status of any decision or principle of law should be verified by counsel.



Thank You!

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