Families First Coronavirus Response Act
Coronavirus Aid, Relief & Economic Security Act
What You Need to Know

03.30.2020
Today’s Agenda

> Introduce HR Advisors
> Review the Families First Coronavirus Response Act (FFCRA)
> Define the reasons and pay options in the Emergency Paid Sick Leave portion of the Act
> Explore the Family Medical Leave Act Expansion within the Act
> Update on FFCRA tax credit opportunities
> Learn about the Coronavirus Aid, Relief, and Economic Security Act (CARES Act)
> Provide practical considerations
Compass drives organizational performance with proven human resource and business strategies.

Our services through HR Advisors, a members-only benefit offered by the Greater Pittsburgh Arts Council with funding from RAD, encompass all aspects of the employee experience.
Tell Us About Your Organization

Do you have:

> More than 500 Employees (A)
> Fewer than 500 employees (B)
> Fewer than 50 employees (C)

1. Go to your control panel (top or bottom of screen)

2. Click on Chat or More to show Chat

3. Type your response: A, B, or C
FFCRA At A Glance

- Families First Coronavirus Response Act (FFCRA)
- Public Law No: 116-127
- Enacted March 18, 2020
- Effective **April 1, 2020**
- Expires December 31, 2020
The Department will observe a temporary period of non-enforcement for the first 30 days after the Act takes effect, so long as the employer has acted reasonably and in good faith to comply with the Act. For purposes of this non-enforcement position, “good faith” exists when violations are remedied and the employee is made whole as soon as practicable by the employer, the violations were not willful, and the Department receives a written commitment from the employer to comply with the Act in the future.
Included in the Act

1. Appropriations
2. Nutrition Waivers
3. Emergency Family and Medical Leave Expansion Act ("FMLA+")
5. Emergency Paid Sick Leave Act ("EPSL")
7. Tax Credits for Paid Sick and Paid Family and Medical Leave
8. Budgetary Effects
Changes in Employment Status

**Hours/Salary Reduction**
- Consider FLSA requirements for exempt employees
- Review CBA and contractual obligations
- Maintains eligibility for FFCRA benefits

**Furlough**
- Unemployment option
- Contact broker for guidance on continued benefits coverage
- May be eligible for FFCRA benefits
- WARN Act applies if longer than six months

**Layoff**
- Unemployment option
- Required to pay out accrued leave benefits
- Not eligible for FFCRA benefits
- WARN may apply

**Unemployment**
- Unprecedented claims and system strain – file ASAP and online
- Check state-specific requirements
- Notify any employee with status change of options
Emergency Paid Sick Leave (EPSL)

- Private employers with \textit{fewer} than 500 employees must offer EPSL
- Public agencies and “any other entity that is not a private entity” also must offer EPSL
- Employers with less than 50 employees plus those with health care providers and emergency responders may be eligible for an exemption
- Document time off in accordance with your attendance policies

\textit{Organizations should utilize current FLSA status and organization structures (and the status to be in effect after the act expires)}
## Reasons an Employee May Take EPSL

### Personal/Self Care:

1. Employee subject to a mandated 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 seeking medical care

### Leave for the Care of Others:

4. The employee is caring for an individual mandated or advised to quarantine or isolation
5. The employee is caring for child (under 18) whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 precaution
6. The employee is experiencing similar conditions as specified by the Secretaries of Health and Human Services, Labor, and/or Treasury
## EPSL – Personal/Self Care

<table>
<thead>
<tr>
<th>Eligibility Requirements</th>
<th>All active full-time and part-time employees as of April 1, 2020 Eligible day one of employment (no waiting period)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Length of Leave</td>
<td>Full-Time Employees: 80 hours (10 days) Part-Time Employees: Based on the average number of hours in a typical two-week period</td>
</tr>
<tr>
<td>Pay</td>
<td>100% of pay, up to $511/day; $5,110 total</td>
</tr>
<tr>
<td>Other Facts</td>
<td>Does not rollover at year end and is not paid out upon separation Act expires December 31, 2020 Leave is in addition to other sick or PTO time per existing company policy</td>
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## EPSL – Care of Others

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<tr>
<td>Pay</td>
<td>2/3 of pay, up to $200/day; $2,000 total</td>
</tr>
<tr>
<td>Other Facts</td>
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Emergency Family Medical Leave Expansion Act (FMLA+)

- **Does not change current FMLA requirements** – only expands and changes those areas that are *expressly* detailed in FMLA+
- Notable changes and expansions:
  - Applies to private employers with *fewer than 500* employees and public agencies including employers with *fewer than 50* employees
  - All full-time or part-time employees *on payroll for 30 calendar days are eligible*
  - New regulations take effect *April 1, 2020* and are *not* retroactive
  - **Expires** December 31, 2020
- Employers have a **duty to notify employees** of this new, paid leave
- Documentation necessary for FMLA+ and may include school and government notices
- **Exemptions** for employers with fewer than 50 employees
Qualifying Event for FMLA+

- Employee can take a leave for “a qualifying need related to a public health emergency”
- The employee is unable to work or telework
- There is one qualifying need:

  an employee must care for a minor child if the child’s school or place/source of child care has been closed due COVID-19
FMLA+ Length and Payment

- FMLA+ leave is still **12 weeks**
- The **first two weeks (80 hours) are unpaid**, but are eligible for EPSL
- The remaining 10 weeks are paid at **2/3 of the employee’s regular rate**
- Maximum payment **capped at $200/day and $10,000 total** per employee
Employers with **more than 25 employees** must return employee to **equivalent position** at conclusion of leave.

Employers with **fewer than 25 employees** have an exception:

- If the position *no longer exists due to operational changes* caused by a public health emergency.
- Must make reasonable effort to contact displaced employee for *up to one year after leave* if an *equivalent position* becomes available.
Tax Credit for FFCRA Leave Costs

> 100% is refundable as a tax credit against quarterly Social Security and Medicare payroll taxes.

> The U.S. Treasury may develop a mechanism for more accelerated reimbursement to small businesses.

> Many large payroll vendors anticipate being ready for this act by April 1, 2020.

> Tax credits available for self-employed individuals related to FFCRA-related EPSL or FMLA+. 
Loans to small businesses

- Applies to employers with fewer than 500 employees including non-profit organizations, self-employed individuals, and independent contractors.
- Loan amount is 2.5 times average monthly payroll in the past year.
- Used to retain workers and make payroll plus pay mortgage, rent, and utilities; cannot be used to pay payroll costs for those making >$100,000.
- Loan can be forgiven to the extent the organization can establish it complies with the foregoing standards.
- Eligibility requires organization to certify that loan is needed due to uncertain economic times, the funds will be used for the purposes stated above, and only one loan is permitted.
Coronavirus Aid, Relief and Economic Security Act (CARES Act)

Additional Provisions

• Bigger non-profits are eligible for bank loans guaranteed by the government, which cannot be more than 2%, with no repayment for six months
  ○ Must retain 90% of workforce through September 30, 2020 (among other labor protections)

• Businesses can contribute up to 25% of taxable earnings to non-profits (up from 10%)

• There is ability to defer payment of employer share of FICA, with half due at the end of 2021 and the other half due at the end of 2022

• Employers can provide up to $5,250 to employees on a tax-free basis for employees to pay off student loans, as well as other education assistance
Coronavirus Aid, Relief and Economic Security Act (CARES Act)

- Extension of unemployment compensation benefits
  - Extends eligibility self-employed individuals, people seeking part-time work, and those without sufficient work history
  - Employees who cannot work due to COVID-19 related issues are also eligible
  - An extra $600 is paid to eligible claimants through July 31, 2020
  - Maximum benefit period is extended from 26 to 39 weeks
  - Extra benefits paid by the federal government
  - One week waiting period is eliminated
- 401(k)/457(b) plans receive penalty free distributions and loans up to $100,000
Changes to Unemployment Compensation (UC)

- Employers required to tell employees upon separation about their rights to UC and how to apply

- One week waiting period is waived during the period of the emergency declared by the Governor (“the Emergency”)

- Job search and registration requirements waived during the Emergency

- Relief from charges during the Emergency
Watch for Additional Information

- Exemption process for employers with less than 50 employees
- Department of Labor anticipated to issue guidance and clarification around FFCRA
- Additional tax credit processes for self-employed individuals and some small business owners
- Congressional stimulus package through the CARES Act
1. Review and understand your responsibilities under FFCRA and opportunities under the CARES Act
2. Notify employees of FFCRA as of April 1, 2020
3. Consider cash flow and operational needs
4. Review your existing paid leave policies
5. Be cautious of any changes to policy or process that may violate new or existing compliance requirements
6. OSHA’s General Clause - maintain safe work environments to minimize spread of COVID-19
7. How you respond now will define your future
Supplementary Resources: All Organizations

DoL FFCRA: Employee Paid Leave Rights:

DoL FFCRA: Employer Paid Leave Requirements:
https://www.dol.gov/agencies/whd/pandemic/ffcra-employer-paid-leave

DoL Required Posting FAQ:
https://www.dol.gov/agencies/whd/pandemic/ffcra-poster-questions

DoL Required Posting:

IRS Coronavirus Tax Relief Information:
https://www.irs.gov/coronavirus

Pennsylvania Unemployment Compensation Filing Materials Checklist
Updated List of COVID-19 Resources for the Arts Community:
http://www.pittsburghartscouncil.org/covid19

GPAC's Business and Legal Services:
http://www.pittsburghartscouncil.org/programs/consulting-services

Support the Emergency Fund for Artists with a Donation:
https://www.pittsburghartscouncil.org/support-effa

Sign up to Receive GPAC Updates:
https://pittsburghartscouncil.secure.force.com/signup/?crid=a05F0000004qrs8IAA

HR Advisors:
http://www.pittsburghartscouncil.org/hradvisors
Contact HR ADVISORS, a members-only benefit offered through the Greater Pittsburgh Arts Council with funding from RAD

Phone: 412.404.6934
Email: HR Advisors@compass-resources.com

HR Advisors will be available starting on April 6, 2020
Alisa Spector Angelo co-founded Compass Business Solutions, a boutique agency that drives organizational performance with proven human resource and business strategies. Alisa brings direct operations, corporate training, and executive coaching expertise to clients in a wide array of industries and organizational sizes ranging from start-ups to Fortune 500 companies. Prior to starting Compass in 2003, Ms. Angelo was the Director of Human Resources, Safety and Environmental for Shandon, Inc. as well as several subsidiaries of Life Sciences International. Alisa earned a B.A. from the University of Pittsburgh and an M.B.A. from the University of Massachusetts.
Kelly T. Radomski
Vice President, Client Solutions
Compass Business Solutions, Inc.

Kelly Radomski’s expertise with Compass in the field of human resources ranges from training, organizational development, coaching and implementing best practices to developing human resource tools and driving process improvement. Prior to joining Compass, Kelly worked for Giant Eagle facilitating their rewards and recognition programs for over 36,000 employees. She also has a background in the field of higher education working in student affairs at New York University, Yeshiva University and Fordham University before moving to Pittsburgh. Originally from Canfield, Ohio, Kelly holds a B.S. in Education from Baldwin-Wallace University and a M.A. from New York University.
Moira A. Singer
Vice President, Client Solutions
Compass Business Solutions, Inc.

Moira Singer is an experienced human resources professional with expertise in a variety of industries. Moira brings direct operations and benefits experience to clients in diverse industries including education, energy, professional services, government, healthcare, manufacturing, retail, and technology. Prior to joining the Compass team in 2004, Moira served as a healthcare administrator at a large teaching hospital in Pittsburgh, a Senior Practice Manager with a national billing and practice management company and the Director of a non-profit community coalition with over 70 partner organizations. Ms. Singer graduated with a B.S. from Penn State University and an M.B.A. from Temple University.
Peter J. Ennis represents employers before state and federal courts and agencies involving a wide variety of employment law claims. Peter's practice also includes counseling employers on personnel related issues. As general outside counsel to two non-profits and special counsel to numerous additional non-profits, Peter has been involved in a wide range of issues, including reviewing and revising corporate by-laws; training board members on fiduciary obligations; drafting and revising employee handbooks and numerous other policies relating to board members, staff and clients; succession planning; responding to government claims of misuse of funds and failure to comply with applicable regulations; real estate acquisition and development; obtaining status as an institute of purely public charity under Pennsylvania law; advising and responding to allegations of sexual abuse against clients; custody issues; and determining "in loco parentis" status. Upon graduating from law school, he served as a law clerk to Justice Arthur H. Healy of the Supreme Court of Connecticut. He has also been honored by his peers and selected multiple times to the Pennsylvania Super Lawyers® list. Peter also serves as editor-in-chief of Pennsylvania Employment Law Deskbook, which is currently in its Fourth Edition and published by PBI Press.