

EPSL / EFML Coordination Explanation - Rowan University

The Families First Coronavirus Response Act (“FFCRA”) provides two different types of leave: (1) Emergency Family Medical Leave (“EFML”); and (2) Emergency Paid Sick Leave (“EPSL”).

EFML can only be taken due to the need to care for a child whose school or place of child care is closed or whose child care provider is unavailable. EMFL is up to a total of 12 weeks, the first 2 of which are unpaid. The remaining 10 weeks are paid at a rate of 2/3 the employee’s regular rate of pay, capped at \$200 per day (which is \$10,000 in the aggregate). EFML taken by employees will count against their total FMLA allotment. And, if an employee has used up FMLA time in the previous 12-month period, the employee will only be permitted EFML up to their total 12 week allotment of FMLA.

Employees may be eligible to take up to 80 hours of EPSL (if full-time, part-time employees will receive a prorated amount) when an employee is unable to work because: (a) the employee is quarantined (pursuant to Federal, State, or local government order or advice of a health care provider), and/or experiencing COVID-19 symptoms and seeking a medical diagnosis; or (b) there is a bona fide need to care for an individual subject to quarantine (pursuant to Federal, State, or local government order or advice of a health care provider). If taking EPSL for reason “(a),” the employee would receive their regular rate of pay (up to \$511 per day and \$5,110 in the aggregate). If taking leave for reason “(b),” the employee would receive 2/3 their regular rate of pay (up to \$200 per day and \$2,000 in the aggregate), and the employee would be permitted, but not required, to supplement their 2/3 pay with earned paid time off.

In addition, employees may also choose to substitute EPSL for the first 2 weeks of unpaid EFML to care for a child whose school or place of child care is closed or whose child care provider is unavailable. If an employee elects such substitution, the employee will receive 2/3 pay up to \$200 per day for up to the whole 12 weeks of EFML. However, employees who elect to substitute EPSL for the first 2 weeks of EFML will then have exhausted their EPSL entitlement as well. In this instance, the employee would get up to a total of 12 weeks of paid leave (up to \$12,000 in the aggregate). If an employee does not choose to substitute EPSL for the first 2 weeks of unpaid EFML, then the employee would be eligible to take 2 weeks of EPSL and the 12 weeks EFML for up to a total of 14 weeks of leave – only 12 of which are paid under the FFCRA – since the first 2 weeks of EFML will be unpaid. As an alternative, instead of substituting EPSL for the first 2 weeks of EFML, an employee may elect for it to be unpaid, or can choose to substitute any University-provided paid time off that they can use for such reason (i.e. personal days, vacation days).

Thus, for the first 2 weeks of EFML, the employee can choose from the following: (a) take the time as unpaid; (b) substitute with EPSL, and receive 2/3 pay; (c) substitute with EPSL, and receive 2/3 pay, and also supplement the remaining 1/3 with earned paid time; or (d) substitute with EPSL, and receive 2/3 pay, and also supplement the remaining 1/3 with earned and unearned paid time.

Finally, with respect to the remaining 10 weeks of EFML, under the FFCRA, an employer can require an employee to take University-provided paid time off to run concurrently with the EFML. The University is not requiring this; instead, employees may receive their 2/3’s pay without having to take their own time off. However, if an employee wishes to collect their full pay during these 10 weeks of EFML (instead of 2/3’s of their pay), then the employee would have to elect to take his/her paid time off to run concurrently, and the time would still count against his/her FMLA allotment. In other words, for the remaining 10 weeks of EFML, the employee can choose from: (a) 2/3 pay in accordance with EFML under the FFCRA; (b) receive full pay by using his/her earned paid time off; or (c) receive full pay by using his/her earned and unearned paid time off. If an employee elects to use his/her paid time off, to receive full pay, and the employee runs out of paid time off, the employee would then receive 2/3’s pay for any remaining EFML.