



Kegel, Kelin, Litts, and Lord, PASBO's legal counsel, have provided us with this information on the Federal law passed a couple of nights ago.

On March 18, 2020, the President signed into law H.R. 6201, the "Families First Coronavirus Response Act" which becomes effective April 2, 2020. This legislation provides many benefits in an effort to combat the coronavirus epidemic, but this KKAL Law Watch provides a basic Q-and-A on the new paid leave provisions.

All public school districts, regardless of their size, are subject to the requirements of this new law. Therefore, school districts must be cognizant of newly expanded FMLA leave and paid sick leave rights that many of their employees will have for COVID-19 related absences from work.

**Expanded FMLA Leave Rights:** H.R. 6201 temporarily expands the right of employees to take FMLA leave to care of their children during the COVID-19 epidemic:

***Which employees may be eligible to take this new FMLA leave?*** Any employee who has been employed by you for at least thirty (30) calendar days (which is different than the FMLA's general requirement of working 1,250 hours in the preceding 12 months for an employer).

***What is the qualifying event to take FMLA leave?*** Any eligible employee who is unable to work (or telework) due to need to care for a son or daughter under 18 years of age, if the child's school, place of care or child care provider is closed or unavailable due to a COVID-19 public health emergency.

***Will an eligible employee's FMLA leave be paid or unpaid?*** This new FMLA leave can be either paid or unpaid depending upon the facts and circumstances surrounding the eligible employee taking the leave.

The law generally provides that the first ten (10) days of the leave are unpaid; however, an employee may elect to substitute any available accrued vacation, personal, medical or sick leave for that unpaid leave. After 10 days of leave, the leave becomes paid at an amount of pay that is not less than two-thirds (2/3) of an employee's regular rate of pay, but not to exceed \$200 per day or exceed \$10,000 in the aggregate pay.

***When does this special FLMA leave expire?*** This provision of the law expires on December 31, 2020.

**Emergency Paid Sick Rights:** H.R. 6201 also creates a new paid sick leave entitlement for employees affected by COVID-19, which supplements any existing sick leave entitlement that your employees may already receive.

***Which employees are eligible for this new paid sick leave?*** All employees, regardless of the durations of their employment are eligible for this emergency paid sick leave, if they suffer from COVID-19 qualifying conditions.

***What COVID-19 conditions entitle an employee take this emergency paid sick leave?*** An employee may take this emergency paid sick leave when subjected to any of these conditions:

- a federal, state or local quarantine or isolation order related to COVID-19;

- advised by a health care provider to self-quarantine due to COVID-19 concerns;
- experiencing COVID-19 symptoms and seeking medical diagnosis;
- caring for an individual subject to a federal, state or local quarantine or isolation order or advised by a health care provider to self-quarantine due to COVID-19 concerns;
- caring for the employee's son or daughter, if the child's school or place of care is closed or the child's care provider is unavailable due to public health emergency; or
- experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

***How much emergency paid sick leave are full-time and part-time employees entitled to receive?*** Full-time employees are entitled to up to eighty (80) hours of paid sick leave. Part-time employees are entitled to amount equal to the number of hours worked, on average, during a two-week period.

***Is there a cap on the maximum amount that can be paid for these emergency sick leave days?*** Yes. Paid sick leave wages is limited to no more than \$511 per day up to \$5,110 per employee when the employee is subject to subjected to quarantine, self-quarantine or suffering COVID-19 symptoms and seeking a medical diagnosis. Paid sick leave wages is limited to no more than \$200 per day up to \$2,000 per employee when the employee is caring for an individual, or child.

***May an employer require employees to use their accrued "normal" sick leave days before accessing this new emergency paid sick leave?*** No.

***May an employee carryover emergency paid sick leave days?*** No.

***How long are employees potentially eligible to take this emergency paid sick leave?*** An employee's entitlement to this emergency paid sick leave ends when an employee' returns to work immediately following the termination of their emergency paid sick time.

***When does this emergency paid sick leave expire?*** This provision of the law expires on December 31, 2020.