



Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue

**March 23 – April 10, 2020
Final Summary Report**



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Introduction

Background

On March 18, 2020, the President signed into law the Families First Coronavirus Response Act (FFCRA). The law requires certain employers to provide their employees with paid sick leave or expanded family and medical leave for specified reasons related to COVID-19. The Department of Labor's (USDOL's) Wage and Hour Division (WHD) administers and enforces the new law's paid leave requirements, which apply from the effective date of April 1, 2020, through December 31, 2020.

In support of the FFCRA, the Office of Compliance Initiatives (OCI), in partnership with WHD and the Office of Disability Employment Policy (ODEP), hosted the Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue. This national online dialogue provided an innovative opportunity for employers and business organizations, employees and employee groups, state and local government officials, and other stakeholders to play a key role in shaping the development of USDOL's compliance assistance materials and outreach strategies related to the implementation of the FFCRA's expanded family and medical leave provisions.

During the three-week national online dialogue, **5,146 stakeholder participants shared ideas** on compliance guidance, resources, and other tools that would help employers and employees understand their responsibilities and rights under the FFCRA. In addition, participants shared comments and asked questions regarding the implementation of the FFCRA. States and localities also discussed paid leave policies and programs they have considered in support of their local constituents.

In conjunction with the dialogue, OCI, WHD, and ODEP hosted the *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19* @ePolicyWorks Twitter chat. During the chat, which included featured guests from the Society of Human Resource Management's Knowledge Center, the National Employment Law Project, and the DirectEmployers Association, participants shared compliance assistance ideas and suggested outreach tactics that could support the implementation of the FFCRA. Contributors highlighted the value of specific communication approaches and tools that would help employers understand their obligations under the law and assist employees to know their rights.

Moving forward, USDOL will use the results of the online dialogue and the Twitter chat to improve the accessibility and usability of its new FFCRA resources and develop additional guidance for employers and employees to understand their responsibilities and rights under the FFCRA.

Online Dialogue Topics

The *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue* was initially divided into the following three different campaigns by stakeholder group. The last week of the dialogue, USDOL added an additional campaign on its FFCRA compliance assistance tools.

1. Employers and Employer Groups

Under this campaign, USDOL asked employers and employer groups to share ideas about how USDOL could help them understand and meet their obligations to provide expanded family and medical leave under the FFCRA. In addition, they were asked to provide insight into what compliance assistance guidance, resources, or tools would help those most and how USDOL could reach the most employers.

2. Employees and Employee Groups

Under this campaign, USDOL asked employees and employee advocacy groups to share ideas on how USDOL can help employees understand their eligibility and entitlement to expanded family and medical leave under the FFCRA. USDOL also asked employees and employee advocacy groups what compliance assistance guidance, resources, or tools would be the most helpful in reaching as many employees as possible.

3. State and Local Government Officials

Under this campaign, USDOL asked state and local government representatives to share examples of any policies or programs introduced or enacted by their state or locality to provide expanded family and medical leave to those affected by COVID-19. USDOL also asked state and local government representatives to discuss best ways to communicate the new requirements to employers and employees and what local outreach strategies they have used that have been successful in the past.

During the last week of the dialogue, USDOL added a fourth campaign:

4. FFCRA Compliance Assistance Tools

On April 1, WHD's FFCRA temporary rule went into effect. Corresponding to the rule, USDOL rolled out additional resources to help employers understand their obligations and employees understand their rights under the FFCRA at www.DOL.gov/Agencies/WHD/Pandemic. Under this campaign, USDOL asked all participants to weigh in on these new compliance assistance resources and tools. In addition, they asked participants how USDOL could improve these tools to ensure they are understandable and accessible.

Outreach Efforts

The *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue* asked employees, employers, state and local government officials, advocacy groups, and other stakeholders to share their ideas. In order to ensure a broad range of participants, ePolicyWorks conducted numerous strategic outreach efforts, including distributing targeted eblasts and social media posts, partnering in promotions around the introduction of FFCRA, and hosting a Twitter chat. ePolicyWorks sent eblasts to their community, as well as advocacy organizations that represent employees and employers, state and local government officials, and other key stakeholders, including members of the disability community.

Total ePolicyWorks Outreach

- Emails Delivered: 17,901 (8 emails sent)
- Emails Opened: 4,324
- Total number of clicks on links in emails (excluding multiple clicks of the same link): 908
- Number of @ePolicyWorks impressions of online dialogue promotions: 17,391 (from 24 online dialogue promotion tweets)
- Social media traffic to the online dialogue:
 - Twitter: 47%
 - Facebook: 41%
 - LinkedIn: 11%
 - Other: 1%
- Of the 45,931 visits to the dialogue, 3,815 visits, or approximately 8.3% of the total traffic to the online dialogue, came from social media.

Independent Online Dialogue and Twitter Chat Promotion

Over the course of the online dialogue, many organizations and advocacy groups promoted the online dialogue and Twitter chat through Facebook, LinkedIn, Twitter, emails, blogs, newsletters, and action alerts. Below is a sampling of the organizations that published details regarding the online events:

- Alaska Department of Labor
- American Network of Community Options and Resources (ANCOR)
- American Payroll Association
- Direct Employers
- Eastern Maine Development Corporation
- Home Builders Association of East Central Illinois
- Independent Electrical Contractors (IEC)
- Iowa Association of Business and Industry
- Mechanical Contractors Association of Eastern Missouri

- National Employment Law Project (NELP)
- Nonprofit Association of Oregon
- Northwest Arkansas Human Resources Association (NOARK)
- Society for Human Resource Management (SHRM)
- Tacoma-Pierce County Chamber
- The City of Tacoma, Washington
- The Government of Lee County, Florida
- The New Mexico Association of Commerce and Industry
- Vermillion Area Chamber and Development Company

Twitter Chat on Providing Expanded Family and Medical Leave to Employees Affected by COVID-19

Twitter Chat Overview

On March 25, 2020, ODEP's State Exchange on Employment & Disability, OCI, and WHD hosted an @ePolicyWorks Twitter Chat focused on how USDOL can help employers and employees understand their responsibilities and rights with paid sick leave and expanded family and medical leave for reasons related to COVID-19.

For one hour, participants took part in a real-time, interactive discussion on strategies related to the implementation of the FFCRA and how best USDOL can reach and inform employers and employees. Topics covered during the chat complemented the ideas shared during the *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue*.

The Twitter chat supported and augmented the ePolicyWorks online dialogue by allowing employers, employees, advocates, state and local leaders, and targeted individuals with compliance-related knowledge and expertise to discuss their experiences and recommendations. It was promoted to dialogue registrants and through the @ePolicyWorks Twitter handle and email blasts to the vast ePolicyWorks community. The ePolicyWorks team also partnered with ODEP, OCI, and WHD to leverage their communications networks to more widely promote the event.

An ePolicyWorks team member moderated the event and asked all participants to use the unique hashtag #EPWChat. The Twitter chat was open to anyone with an active Twitter account. The chat included featured guests Amber Clayton, Director of the Society of Human Resource Management's (SHRM) Knowledge Center, Judy Conti, Director of Government Affairs for National Employment Law Project (NELP), and Candee Chambers, Executive Director of the DirectEmployers Association (DE).

During the Twitter chat, the moderator posed questions to the featured guests; participants were encouraged to join the conversation. In addition, participants interacted with each other during the Twitter chat, responding to and commenting on replies. Many participants also

retweeted resources and responses from the featured guests to their followers, furthering the reach of the conversation. Throughout the Twitter chat, the @ePolicyWorks hosts reminded and encouraged all participants to visit the online dialogue following the Twitter chat to continue and expand on the conversation. Following the conclusion of the Twitter chat, the ePolicyWorks team reviewed the statistics and analyzed the results, using them to glean additional information and build upon the momentum for the online dialogue.

Please find a compilation of all tweets from the Twitter chat at <https://wke.lt/w/s/Y7GcED> (open in Chrome).

[Appendix A](#) of this document includes tweets on considerations for distributing compliance assistance resources. [Appendix B](#) includes tweets with specific questions about the FFCRA.

Twitter Chat Metrics

- Number of Tweets posted with the #EPWChat during chat: (including tweets from ePolicyWorks): 167 (plus an additional 8 posts before the chat began)
- Number of impressions received on tweets sent by ePolicyWorks during the chat (total number of views): 23,356
- Number of active tweeters (participants who posted at least once, not including hosts) during chat: 41
- Number of resources shared during the chat: 14

Key Stakeholder Groups

In addition to our featured guests, colleagues from the Society for Human Resource Management, National Employment Law Project, and DirectEmployers, individual participants, and several key stakeholder groups participated in the Twitter chat and shared links relevant to FFCRA compliance materials, resources, policies, and other supports. These organizations include:

- @SHRMAdvocacy
- @AlaskaDOL (Alaska Department of Labor)
- @LeeCountyFLBOCC (Lee County Government, Florida)
- @CityofTacoma (City of Tacoma, Washington)
- @Tacoma_Pierce (Tacoma-Pierce County Chamber of Commerce)
- @JNCLInfo (Joint National Committee for Languages)
- @TheRealANCOR (American Network of Community Options and Resources)
- @nardotrealtor (National Association of REALTORS)
- @PayNews (American Payroll Association)
- @HBAECI (Home Builders Association of East Central Illinois)

- @NOARKHR (Northwest Arkansas Human Resources Association)
- @IowaABI (Iowa Association of Business and Industry)
- @EMDCMaine (Eastern Maine Development Corp)
- @ACINewMexico (New Mexico Association of Commerce and Industry)
- @VermillionSD (Vermillion Chamber & Development Company, South Dakota)
- @NJ_CAA (NJ Concrete & Aggregate Association)
- @ucsd_otiec (University of California San Diego OSHA Training Institute Education Center)
- @NJ_CAA (NJ Concrete & Aggregate Association)
- @NonProfitOregon (Nonprofit Association of Oregon)
- @CDETTweets (Campaign for Disability Employment)

Key Themes from Twitter Chat

During the hour-long *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 Twitter Chat*, participants shared compliance assistance materials and outreach ideas targeted to both employers and employees. The wealth of information tweeted and retweeted during the Twitter chat will not only assist USDOL in its mission but also will serve as a resource for employees, employers, advocates and individual stakeholders. Based on the tweets during the Twitter chat, several themes emerged including the following:

- Many states and localities have created their own programs and resources to support compliance with the FFCRA and in response to COVID-19.
- The Federal Government should ensure that all compliance assistance materials related to the FFCRA are easy to understand and comprehensive.
- USDOL should leverage all communication channels thoughtfully when distributing information on the FCCRA. Use news outlets, podcasts, social media, live-streaming platforms and webinars to reach wide audiences.
- USDOL plays a key role in the dissemination of information about rights and responsibilities under the FCCRA.
- It's important that employers and employees with disabilities be considered in all FFCRA regulation and implementation.

Twitter Chat Results

The multitude of ideas gathered from both the online dialogue and Twitter chat illustrate that collaboration and crowdsourcing are imperative for the advancement and development of USDOL's compliance assistance strategies. USDOL will use the ideas and comments gathered from these two online events to guide its work to expand and enhance compliance assistance

resources and materials. These resources and materials will assist employers and employees in understanding their responsibilities and rights under the FFCRA.

Online Dialogue Participant Summary

The *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue* opened for participation on March 23, 2020, and closed at midnight on April 10, 2020. Below is the information on the number of online dialogue visits*, registrants, participation rates, location of registrants, and profile information provided by registrants during the registration process.



Total Contributions to the Online Dialogue

Total number of ideas in the online dialogue: 1,304

- Ideas in the Employers and Employer Groups Campaign: 1,020
- Ideas in the Employees and Employee Groups Campaign: 99
- Ideas in the State and Local Government Officials Campaign: 65

- Ideas in the FFCRA Compliance Assistance Tools Campaign: 120

Total number of comments in the online dialogue: 1,279

- Comments in the Employers and Employer Groups Campaign: 972
- Comments in the Employees and Employee Groups Campaign: 84
- Comments in the State and Local Government Officials Campaign: 121
- Comments in the FFCRA Compliance Assistance Tools Campaign: 102

Total number of votes in the online dialogue: 13,562

- Votes in the Employers and Employer Groups Campaign: 11,970
- Votes in the Employees and Employee Groups Campaign: 471
- Votes in the State and Local Government Officials Campaign: 701
- Votes in the FFCRA Compliance Assistance Tools Campaign: 420

Total Visits and Visitors during the Online Dialogue

Information on the visits to the online dialogue

- Total unique visits to the online dialogue: 45,931
- Total page views: 152,033
- Average pages views per visit: 3.31
- Average visit duration (minutes): 2:55
- Bounce rate (percentage of visitor who leave after viewing the first page of the online dialogue): 57.66%

Information on the visitors to the online dialogue

- Total unique visitors*: 36,587
- Average number of sessions per visitor: 1.26
- Returning visitors: 12.5%
- Total number of visitors who completed the registration: 5,146 (14% of unique visitors)
- Total number of registrants who participated**: 2,027 (39.4% of registrants)

**Visitors are all individuals who have viewed the online dialogue. This includes individuals who did not completed the registration process.*

***"Participation" includes registering and submitting ideas, comments or votes to the dialogue's online platform.*

Self-Reported State Affiliation of Online Dialogue Registrants

<u>State</u>	<u>Total Number</u>	<u>Percentage of Total</u>
California	564	10.96%
Florida	373	7.25%
Texas	364	7.07%
Pennsylvania	271	5.27%
North Carolina	212	4.12%
Ohio	196	3.81%
Virginia	196	3.81%
Wisconsin	186	3.61%
Illinois	172	3.34%
Michigan	171	3.32%
New York	165	3.21%
Georgia	146	2.84%
Massachusetts	125	2.43%
Maryland	122	2.37%
Indiana	105	2.04%
Missouri	99	1.92%
New Jersey	93	1.81%
Colorado	89	1.73%
Arizona	85	1.65%
Washington	85	1.65%
South Carolina	84	1.63%
Tennessee	82	1.59%
Oregon	76	1.48%
District of Columbia	75	1.46%
Louisiana	70	1.36%
Minnesota	69	1.34%
Kansas	63	1.22%
Alabama	62	1.20%
Kentucky	60	1.17%
Oklahoma	59	1.15%
Iowa	48	0.93%
Connecticut	46	0.89%
Arkansas	44	0.86%
Nevada	43	0.84%
New Hampshire	40	0.78%
Utah	39	0.76%
Nebraska	37	0.72%
Idaho	34	0.66%
Mississippi	34	0.66%

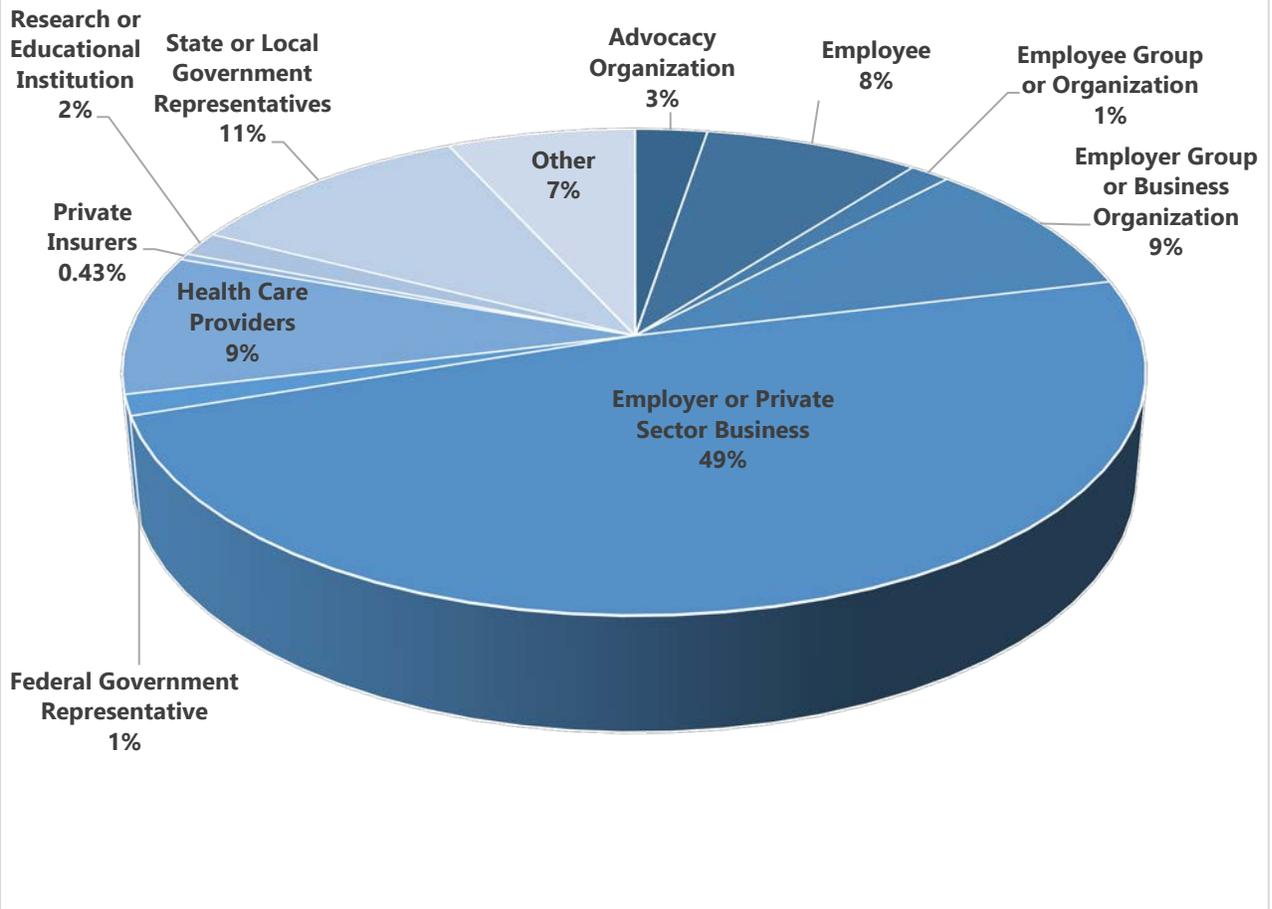
State	Total Number	Percentage of Total
Montana	31	0.60%
South Dakota	31	0.60%
West Virginia	31	0.60%
Maine	22	0.43%
Delaware	21	0.41%
New Mexico	21	0.41%
Wyoming	20	0.39%
Hawaii	18	0.35%
Alaska	15	0.29%
North Dakota	15	0.29%
Vermont	12	0.23%
Rhode Island	11	0.21%
U.S. Territories	11	0.21%
Other	3	0.06%

Online Dialogue Registrant Profiles

When registering for the *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue*, in addition to identifying their state, participants were asked to name the stakeholder group they represented. The choices were predetermined for this question and participants were only allowed to choose one answer. Below is a summary of the responses:

Stakeholder Group	Total Number of Participants	Percentage of Total
Employer or Private Sector Business	2,499	48.56%
State or Local Government Representatives	547	10.63%
Health Care Providers	479	9.31%
Employer Group or Business Organization	477	9.27%
Employee	404	7.85%
Other	353	6.86%
Advocacy Organization	135	2.62%
Research or Educational Institution	83	1.61%
Employee Group or Organization	76	1.48%
Federal Government Representative	71	1.38%
Private Insurers	22	0.43%

Registrants' Stakeholder Identification



Review and Analysis of Online Dialogue Contributions

Over the course of the *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 National Online Dialogue*, participants from across the U.S. shared thought-provoking and innovative suggestions and recommendations to improve employers' and employees' understanding of their responsibilities and rights under the FFCRA. The range and depth of the ideas submitted and discussed during the online dialogue demonstrates the immense value of engaging citizens in compliance assistance efforts. Employees, employers, advocates, and government representatives jointly contributed 1,304 ideas, 1,279 comments, and 13,562 votes to the dialogue. Based on these contributions, several themes emerged as key interests among the different stakeholders in the discussion around the development and continued improvement of compliance assistance materials in support of the FFCRA.

Online Dialogue Key Themes and Takeaways

Moderator Tags

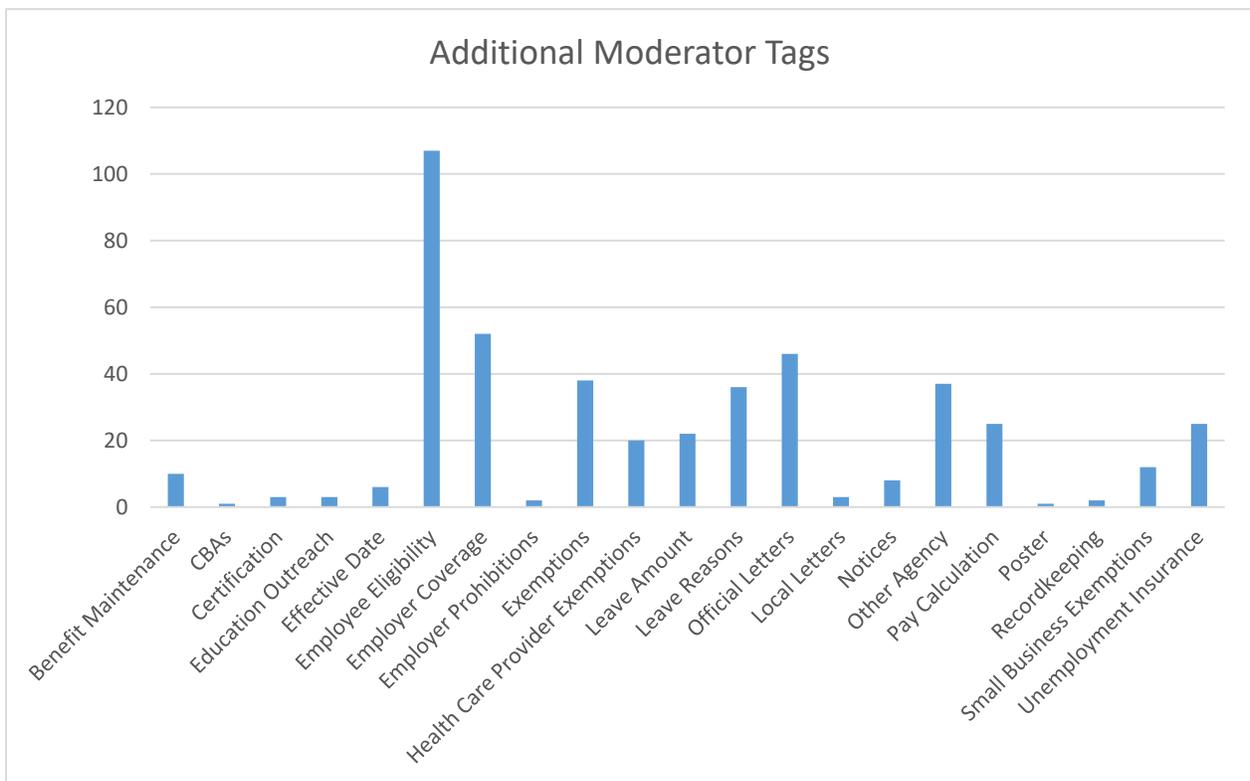
In addition to moderating the dialogue by reviewing ideas and adding comments, the dialogue moderators also took the time to tag each idea as "Compliance Assistance" and/or "Guidance." The "Compliance Assistance" tag included ideas that provided input on how to improve USDOL's existing compliance assistance materials or made suggestions for new materials. The "Guidance" tag included ideas that requested clarification or made suggestions on implementation of the FFCRA and the WHD temporary rule.

- Number of Ideas Tagged Compliance Assistance: 112
- Number of Ideas Tagged Guidance: 1,255



Over the course of the dialogue, USDOL added moderator tags to identify specific topics as well as classify official correspondence. Below is the list of 25 unique moderator tags and the number of times moderators identified an idea by each tag.

- Benefit Maintenance: 10
- CBAs: 1
- Certification: 3
- Education Outreach: 3
- Effective Date: 6
- Employee Eligibility: 107
- Employer Coverage: 52
- Employer Prohibitions: 2
- Exemptions: 38
- Health Care Provider Exemptions: 20
- Leave Amount: 22
- Leave Reasons: 36
- Official Letters: 46
- Local Laws: 3
- Notices: 8
- Other Agency: 37
- Pay Calculation: 25
- Poster: 1
- Recordkeeping: 2
- Small Business Exemptions: 12
- Unemployment Insurance: 25



Key Compliance Assistance Themes and Takeaways

Clarification and the need for information

Over the course of the dialogue, there were many ideas requesting clarification on the provisions of the new law.

- These ideas suggested that a robust FAQ compliance assistance website would address the needs of both employees and employers. As part of the FAQs, many commenters suggested providing links to forms or other materials and developing infographics that clarify coverage under the new law. One registrant suggested the following, “Employers need guidance via forms, online calculators to help determine benefits, which leaves apply, etc.”
- Other suggestions included infographics as “a great way to digest all this information in a short period of time.”
- Many participants stressed the need to underscore any updates in the FAQs. One idea mentioned, “This week the USDOL updated the FFCRA FAQ right after I printed it.... Is there a way to add something to the top of the page and then either make the updates red or bold to advise us when there are changes?” Another individual asked, “As changes or further guidance comes out, could the date be posted on the FAQ sheet?”
- There were also several ideas about forms, specifically, “There should be a standard request form for employees and a standard response form for employers. Similar to what we currently have in place for FMLA.”
- In addition to forms, many discussed the need for calculators; for example: “It would be great if we could get calculators for the paid sick leave, paid family leave and possibly employer tax credits.” Participants also requested “guidance that provides a detailed description of how the number of hours and the wage is calculated for the paid leave. Payroll departments are trying to prepare for how this will work.”

Reaching employees that are teleworking

Several ideas focused on the need to reach employees wherever they are. During this crisis, many employees are now working from home. The standard workplace posters and handouts might not reach all employees now that a majority are not physically in the workplace. For example, one participant noted that USDOL should be “requiring the mandatory notice to be posted on web-pages and emailed to all employees. Given that most organizations are teleworking because of COVID-19 it would put people at risk to require the notice be posted on physical bulletin board.”

Focused outreach to rural, agricultural, and other harder-to-reach employees and employers

Several participants discussed the need to ensure that outreach included rural and agricultural employers and employees. They noted that, “More information is needed on how the new FFCRA can best be implemented in the agriculture industry. We have seasonality, variable work

hours, piece-rate pay structures. We need more information in Spanish to provide to employees.” In addition to providing information in different languages, many of the ideas stressed the need to make information available to individuals with disabilities. USDOL should ensure that all resources are accessible and reach out to advocacy groups and others that represent different communities.

Webinars and online education

Many registrants provided compliance assistance ideas around new and innovative ways to reach employers and employees. USDOL saw the basic premise of one idea often repeated: “Everyone learns differently so in addition to reading materials also provide videos and interactive pages.” One participant suggested, “Please reach out to social media developers and consider using ads on platforms such as LinkedIn, YouTube, Facebook, Twitter, and others to direct people to DOL sites with information on EFMLA and grants/ loans to small businesses.”

In addition, many participants agreed with the following idea: “Please offer a webinar or some sort of online education to help business employers understand their new legal responsibilities.” Another suggested “Perhaps a TV webinar? For example, like during a telethon where employers, employees etc. can call in and ask questions and you can watch it on your TV on all platforms (Netflix, Amazon, Hulu) at no cost to reach more people.” There were several responses asking for interactive webinars, such as “a webinar or some sort of online education to help business employers understand their new legal responsibilities.”

Key Guidance Themes and Takeaways

There were 15 primary topic areas that OCI and WHD identified in analysis of the questions posed through the submitter comments and ideas in the online dialogue.

Employee eligibility

There were a number of questions posed around employee eligibility. For example, commenters asked whether quarantine orders or statewide “stay-at-home” orders would be a reason for employee eligibility. Commenters also asked about employee eligibility and the effective dates of the law, such as whether employees on furlough were eligible if they were laid off between the time of the FFCRA’s passage and its effective day.

In addition, there were posts about what would make an employee not eligible, including sick pay, telework or alternate shifts, if a business is closed, part-time hours, having already taken FMLA, having no PTO or working at an essential or seasonal business. There were also suggestions around the definition of healthcare providers to ensure it covered all those working in healthcare professions.

Employer Coverage

Many participants requested guidance on who is covered under the law. They sought clarification on whether or not the law’s provision covering employers with 500 or fewer

employees includes closed or furloughed businesses, one location of a business, or the entire company. They also wanted to know whether the limit applied to state and local governments or religious institutions. Participants wanted to better understand how full-time employees are calculated, and if the calculation includes temporarily furloughed employees or employees brought in from a temp agency.

Exemptions

Another common theme throughout the guidance-focused idea threads was exemptions and partial exemptions under the FFCRA. Individuals wanted to better understand which employees count for the exemption – for example, all health care providers, administrative staff at health care providers, caregivers providing in-home care, or employees at residential care facilities. They also wanted to know how to apply for exemptions and have a better understanding of the exemption process. They asked if employers exempt from FMLA would also be exempt from EFMLA.

Reasons for Leave

Many commenters sought information about the various reasons to use EFMLA as opposed to the FMLA, such as “Can employees currently using FMLA for another reason switch to EFMLA?” Participants asked questions related to the law’s definition of reasons for leave, asking whether self-isolation out of fear and stay-at-home/shelter-in-place orders were reasons for leave.

Amount of leave

Many registrants had questions regarding the amount of leave for which employees are eligible under the FFCRA. Specifically, participants posed questions in the dialogue regarding whether employees could take EFMLA leave intermittently. They also asked if married employees had access to 12 weeks, or if they would need to split leave, and whether employees could receive full base pay for the time worked and reduced pay for the time leave is taken. Some posts in the dialogue asked for guidance around the interaction between EFMLA and FMLA. Commenters asked, “Does EFMLA count on top of FMLA already in place,” “Can EFMLA and FMLA run concurrently,” and “What if regular FMLA was exhausted prior to April 1?”

Other Agency Guidance

Commenters asked questions that are not under DOL’s jurisdiction and should be directed to other agencies. Commenters asked questions about payroll tax credit and reimbursement, such as “How will the payroll tax credit be administered?” and “If we opt in to the FFCRA are we will eligible to receive a refund?”

Certification

Certification was another prevalent guidance-related theme. Specifically, how to certify certain circumstances or conditions including the need for childcare, required quarantine, illness,

underlying health conditions and care of individuals with disabilities. Many asked if there would be a standard form to address the issues of certification.

Maintain Benefits

Several employers sought guidance on the types of employer benefits available to employees during the leave. They wanted to know whether under EFMLA payments they could withhold wages for elective benefits as normal, or whether employees whose hours were reduced are still responsible for their portion of medical insurance premiums. They also asked whether they have to maintain workers' compensation benefits for employees who are affected by COVID-19.

Record Keeping

To achieve compliance, employers wanted to know what records they must keep. Many questions in this topic had to do with how employers must track employee hours and whether they need to use any tracking tools. For example, commenters asked questions about how employers document the leave employees take, how employers track time off for employees who take leave intermittently, and what tracking tools are necessary.

Calculation of pay

Another common theme in the ideas tagged as guidance was the calculation of pay and calculation of total leave pay. Respondents posted about the interaction of employer provided sick leave/pay and the calculation of pay. There were also several ideas that discussed the calculation of pay when employees do not work regular hours or work hours different from their original schedule.

Notices

Employers and their representatives wanted to know if there are notice requirements with the new law. They asked around providing notice to employees about taking leave, such as whether a paid sick leave notice need to be emailed to employees working remotely and whether posters needed to be provided to health care workers.

Employer prohibitions

Participants discussing employer prohibitions wanted to know if employers could require employees to self-quarantine or take leave, and if employers were prohibited from laying people off due to lack of work. Overall, they wanted clarification on the justifications that would allow employers to deny leave and what retaliation would be prohibited. For example, employers asked whether normal FMLA prohibitions on employer retaliation to employees taking leave apply to EFMLA.

Job Restoration

Commenters asked questions surrounding the requirements of returning the employee to work after the employee takes leave. They asked to whom job restoration programs apply and if they apply only to individuals affected by COVID-19.

Multi-Employer Agreements

Employers were asking for guidance on how to apply the new law properly with multi-employer agreements. For example, they asked whether an employer that is part of a multi-employer agreement fulfilling its obligation by contributing to a general health and welfare fund.

Interaction with state/local laws

Some states/localities with medical leave laws wanted to know how to apply the new law in conjunction with their state requirements.

Secondary Topic Areas

There were several other topic areas that OCI and WHD identified when analyzing the dialogue submissions.

1. **Education and Outreach:** Several employers sought guidance, in the form of compliance assistance materials, on how to apply the law correctly.
2. **Effective Date:** Commenters wanted confirmation of the law's effective date.
3. **Eligibility – Migrant Workers / H-2A:** Some commenters requested clarity surrounding the application of employee eligibility specifically, as it applies to immigrants with work visas and migrants.
4. **Poster:** Employers asked if they are required to display and/or email a poster to notify employees of the new law.
5. **Spouses working for the Same Employer:** A few commenters expressed concerns around having to share the leave entitlements with the desperate need for the leave offered by the new law.
6. **Collective Bargaining Agreements:** Commenters wanted to know how the new law interacts with standing collective bargaining agreements.
7. **Documentation:** Employers were curious about the type of documents/records that employees are required to provide to support their leave request.
8. **Small Business Exemptions:** Several commenters were anxious to learn more about the requirements to meet the exemption and what documentation they need to provide.
9. **Health Care Provider & Emergency Responder Exemptions:** Many commenters sought guidance on specifically which positions qualify for the exemption.
10. **Treasury / IRS:** Commenters asked how to properly apply tax credits for the new law, which is guidance that the IRS must provide.

Most Popular Ideas in the Online Dialogue

Below are the two most popular ideas from each of the *Providing Expanded Family and Medical Leave to Employees Affected by COVID-19 Online Dialogue's* four topic areas. Most popular is determined based on the idea's number up votes, comments, and followers.

The ideas listed in the following section include minor typographical corrections, which have in no way impacted the substance or the intention of the revised posts.

Do "Shelter in Place" Orders Qualify as "Quarantine or Isolation Orders"

Topic: Employers and Employer Groups

66 Up Votes | 0 Down Votes | 66 Net Votes

Comments: 10

Followers: 17

Moderator Tags: Guidance

Many businesses are currently subject to state or local orders urging local residents to "stay home" except for certain limited purposes and requiring non-essential businesses to close.

Do these "stay home" or "shelter in place" orders qualify as "federal, state, or local quarantine or isolation orders related to COVID-19" such that a non-essential business that is closed because of such an order have to provide paid sick leave?

If the business is not closed, but the employee resides in a jurisdiction with a "shelter in place" order and either cannot work remotely/ or are not otherwise exempt from the order for work purposes, does the employee qualify for paid sick leave?

Forms

Topic: Employers and Employer Groups

66 Up Votes | 1 Down Votes | 65 Net Votes

Comments: 11

Followers: 7

Moderator Tags: Guidance, Certification

Employers will need forms to have employees complete and submit for the paid FMLA leave. The forms should help facilitate the leave and reduce questions. It should have employees certify the leave and explain they must return when the circumstances are removed. Under the current law anyone with a child under 18 can stop working and collect the paid FMLA if they claim a lack of childcare. Can employers request proof of a lack of childcare? As an employee, what proof could you get from a closed day care? What if the child is 17, apparently the employer cannot inquire if the child typically stays at home alone? Essentially the honesty policy and good faith are to be used to facilitate the use of the leave and the form should attempt to make that clear. Obviously, those abusing the leave should be subject to discipline. Issuing the forms sooner than later will help the process. If forms are not issued until the day before

Employers will not have time to prepare for the leave. This in turn leaves employers vulnerable to making mistakes as a result of lack of training and education as opposed to any intentional violations."

Will FMLA leave previously taken within the past year count against taking expanded leave?

Topic: Employees and Employee Groups
27 Up Votes | 1 Down Votes | 26 Net Votes
Comments: 1
Followers: 2
Moderator Tags: Guidance

"I am the Founder and Executive Director of the Gender Equality Law Center based in NYC. I along with several dozen workers' rights groups are trying to find out for answers about this emergency FMLA benefit to provide answers to our workers. Will the new Emergency FMLA leave will provide a new period of time to protect workers need to remain home to provide childcare? In other words, will an employee who has taken FMLA leave, or even expended all of their FMLA leave over the past year be eligible to take this emergency leave?"

Also, will emergency FMLA leave apply to essential workers in states like New York?"

Step by Step instruction with examples

Topic: Employees and Employee Groups
24 Up Votes | 1 Down Votes | 23 Net Votes
Comments: 4
Followers: 3
Moderator Tags: Compliance Assistance

"As this is new territory for all, it would be nice to have specific examples for employers on how to handle each situation that needs to be covered. While every situation is circumstantial, it would be nice to have a guide for all 6 items and how it should be handled and what that employee should be paid."

Effective date questions

Topic: State and Local Government Officials
43 Up Votes | 1 Down Votes | 42 Net Votes
Comments: 1
Followers: 8
Moderator Tags: Guidance

"If this Act doesn't go into effect until 4/2, what happens to the employees missing work now? Do we go back and pay them, or just wait until after 4/2?"

When does the re-reimbursement start?

What type of proof will we need to provide to the government to get re-reimbursed?

What happens to the employee who chooses to self-isolate out of fear, but was not directed to?"

Clarification for State/Local Government

Topic: State and Local Government Officials

36 Up Votes | 1 Down Votes | 35 Net Votes

Comments: 3

Followers: 8

Moderator Tags: Guidance

"Does the Emergency FMLA pay portion of the Act apply to State/Local Governmental Employers? How does the tax exempt/tax credit work for these employers? Is it both the employee and employer portion of OASDI tax (social security) that is exempt? Is it something that can be done through payroll or does it need to be taken as a credit on the 941? If employers pay higher than the daily cap, would any additional pay be considered taxable?"

Forms for expanded family medical leave

Topic: FFCRA Compliance Assistance Tools

22 Up Votes | 0 Down Votes | 22 Net Votes

Comments: 1

Followers: 2

Moderator Tags: Compliance Assistance, Guidance, Other Agency

"Good Morning:

It would be good to have forms, similar to the forms for the regular FMLA, that we could use to manage the expanded FMLA. Of course, it would be helpful if the forms would also contain all the information necessary to claim the tax rebate for employers.

Same for the emergency paid sick leave. If there are specific recording requirements for claiming the tax rebate it would be nice to have a request and approval form that aligned with those requirements.

Thank you,

Ivy"

Formal Documents

Topic: FFCRA Compliance Assistance Tools

18 Up Votes | 0 Down Votes | 18 Net Votes

Comments: 2

Followers: 5

Moderator Tags: Guidance, Certification

"Is there a specific document that is use for FFCRA leave available? We have created an internal form for employee to provide as much information as possible for leave but we would like to see if there is a specific form for this particular situation?"

Appendix A: Tweets on Considerations for Distributing Compliance Assistance Resources

Tweet	Link
"Written guidance in plain and simple language so there's no mistaking the obligations. There should be a bulleted list of requirements without complicated text."	https://bit.ly/3cCF9fJ
"Infographics are wonderful as they are quick to read and easy to understand. Employees need to find answers to their questions quickly and easily and an infographic can do that."	https://bit.ly/34UM29F
"Clear info about what number to call if they believe they are not getting what they're entitled to."	https://bit.ly/2Kh1LXh
"@USDOL should also have materials available on http://Employer.gov and http://Worker.gov with a new tile at the top of the pages or #FFCRA commonly asked questions in each applicable tile."	https://bit.ly/34POqP3
"Information should be available on the front page of the @USDOL website and on each agency's website, i.e., OFCCP, @WHD_DOL, etc."	https://bit.ly/3bqj2cv
"Include all the same languages that are available in the #OFCCP's documents: English, Spanish, Chinese – Simplified, Chinese – Traditional, Haitian Creole, Hmong, Somali, & Vietnamese"#HR	https://bit.ly/3cwESuN
"People learn in different ways, so please consider getting the info out in multiple formats – written text, check-lists and worksheets, flow-chats, and infographics. But also, don't forget to have audio files easily accessible for the vision impaired."	https://bit.ly/2VIYIBR
"Webinars and videos should be used to supplement these resources. Webinars for employers and short YouTube Videos for employers to provide their employees to explain their rights and how to request them."	https://bit.ly/2RSOY1v
"Ask school districts to send info to all parents; work with http://Patch.com and similar types of local media to share the info. But there are	https://bit.ly/2yqxfaP

<p>many people still on the job, so ask all "essential" employers to share the info with all their workers."</p>	
<p>"Podcasts are also another impact way to reach a broad audience. We just started the DE Talk podcast and have had an amazing subscriber response with just six short episodes, all covering varying topics from #OFCCP compliance to #women in #leadership and #A11Y."</p>	<p>https://bit.ly/2wSZONw</p>
<p>"@USDOL should create an #FFCRA checklist or flowchart for employers regarding what to consider when implementing leave, pay, furloughs and layoffs.</p>	<p>https://bit.ly/2xyzuJ3</p>

Appendix B: Tweets with Questions about the FFCRA

Tweet	Link
"Do state and local "shelter in place" orders constitute "quarantine or isolation orders" under the FFCRA such that employees who are currently not working due to business shut-downs are entitled to paid leave?"	https://bit.ly/2RPAMWH
"Are there resources to cover sick or medical leave prior to effective date of 4/1 for FFCRA, but from COVID-19 related quarantine orders in March?"	https://bit.ly/3cscNFO
"Is an employee who is already on furlough as of April 1 entitled to paid leave under the FFCRA? If so, how to calculate the hours / rate of pay?"	https://bit.ly/2XXqibE
"Since the #FFCRA sick leave must be provided in addition to the paid leave a covered employer already provides, may an employer properly reduce the amount of non-FFCRA paid leave being offered to current and/or new employees?"	https://bit.ly/3eF78gH
"If an ER converts an employee currently and properly classified as exempt to non-exempt so the employee can work a part-time schedule including partial days will the usual full day pay rule be waived?"	https://bit.ly/3bjS8mt
"Will DOL be providing guidance on substitution (or stacking) of other paid leave benefits, at the employee or employer's option to make up for the capped wages and pay the employee's full salary?"	https://bit.ly/2Vq6mge
"Can leave under the #EFMLEA be used intermittently if the employee requests to be off only certain days?"	https://bit.ly/2zhXRev
"If a company closes its doors and stops operating, but still chooses to cover health insurance, is the employer/company still required to provide leave payments under #FFCRA?"	https://bit.ly/3eAl7n1
"Help! How will the Families First Act and tax breaks apply to us non-profits? We have decisions to make with haste!"	https://bit.ly/2XOm6ei

<p>"Just a few other considerations when making employer FAQs @USDOL</p> <ol style="list-style-type: none">1. Neither the sick leave nor FMLA specify if temporary/seasonal or intern staff are eligible.2. If employees are able to complete telework even not a straight 8-hour day block, can the employer deny?"	<p>https://bit.ly/2Kkzvmy</p>
<p>"Can the DOL communicate the healthcare employer's exemption in more than a footnote? Most employees are reading that this applies to them the way it's portrayed."</p>	<p>https://bit.ly/34WWhdF</p>
<p>"Will the integrated employer test in 29 CFR 104(c)(2) be followed to determine if separate entities are a single employer?"</p>	<p>https://bit.ly/2xI6dLO</p>