



Coronavirus (COVID-19) Legal FAQ for Educators Pay and Unemployment Insurance

On March 23, 2020, Governor Cooper issued Executive Order No. 120, in response to cases of the Coronavirus Disease 2019 (COVID-19) in North Carolina. The Order prolonged the closure of all public schools for students until May 15, 2020, unless extended beyond that date. The below information addresses educators' Frequently Asked Questions (FAQs) and concerns, based on our best knowledge to date.

1. Will we get paid while schools remain closed through May 15 as a result of COVID-19?

Previous guidance from the North Carolina State Board of Education (SBE) stated that between March 16 to March 30, 2020, all staff who remain in work status are eligible to be paid. On March 24, 2020, during the NCAE member only telephone townhall, Governor Cooper stated that he "wants to make sure that all of our school personnel continue to get paid during this crisis." Compensation for all educators, including Education Support Personnel (ESP), remain high on the list of priorities for NCAE; hence, we are committed to advocating for salaries and benefits to remain intact during school closure.

2. If I am unable to work [or telework] due to illness, or the need to care for a child or individual, as a result of COVID-19, can I get paid?

You may be eligible for leave and receive full or partial compensation for a period of time as stated below.

- I. The Family First Coronavirus Response Act (FFCRA) was passed by Congress, and signed into law by the President last week. The law has two provisions which go into effect on April 1, 2020, and may be used together: The Emergency Family and Medical Leave Expansion Act and the Emergency Sick Leave Act. The FFCRA provides employees with leave if they are unable to work [or telework] as follows:
 - a. "Two weeks (up to 80 hours) of **paid sick leave** at the employee's regular rate of pay," if an employee is unable to work because they are quarantined as a result of a "Federal, State, or local government order or advice of a healthcare provider, and/or experiencing COVID-19 symptoms and seeking a medical diagnosis;" or
 - b. "Two weeks (up to 80 hours) of **paid sick leave** at two-thirds the employee's regular rate of pay" if an employee is unable to work because of "a bona fide need to care for an individual subject to quarantine" as a result of a "Federal, State, or local government order or advice of a healthcare provider, or to care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons

related to COVID-19, and/or the employee is experiencing a substantially similar condition,” and

- c. *“Up to an additional 10 weeks of **paid expanded family and medical leave** at two-thirds the employee’s regular rate of pay,”* if they are employed for more than 30 calendar days, and unable to work due to “a bona fide need for leave to care for a child whose school or child care provider is closed or unavailable for reasons related to COVID-19.”

You can find more information about the FFCRA on the U.S. Department of Labor website at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-employee-paid-leave> and on the Department’s Employee Rights poster attached.

- II. Educators may be eligible for Voluntary Shared Leave (VSL) if they are permanent employees, and either they, or their immediate family member, have a serious medical condition, and meet the requirements for VSL. You may request leave from your Office of Human Resources. Leave under this section is voluntary and at the discretion of employees who desire to share.

3. Can I apply for unemployment if I am unable to work due to COVID-19?

On March 17, 2020, during a press conference announcing Executive Order No. 118, Governor Cooper stated that people who are out of work due to COVID-19 should be able to apply for unemployment benefits. Governor Cooper ordered the Department of Commerce (agency responsible for administering unemployment insurance benefits) to bypass strict requirements to receive unemployment insurance benefits, including: the one week waiting period for benefits, the able and available work requirements, and the work search requirement. You may find specific information regarding eligibility and how to apply for unemployment insurance benefits via the Department’s website at:

<https://des.nc.gov/need-help/covid-19-information>.

NCAE continues to advocate with policy makers at the district level, State Board of Education, Governor’s Office, and the General Assembly to ensure educators’ concerns are considered in the State’s pandemic response. For additional sources of information, please visit our Resource Page on the NCAE website at: <http://bit.ly/NCAECovidResources>.

We will update the page and the FAQs as we receive further information.

EMPLOYEE RIGHTS

PAID SICK LEAVE AND EXPANDED FAMILY AND MEDICAL LEAVE UNDER THE FAMILIES FIRST CORONAVIRUS RESPONSE ACT

The Families First Coronavirus Response Act (FFCRA or Act) requires certain employers to provide their employees with paid sick leave and expanded family and medical leave for specified reasons related to COVID-19. These provisions will apply from April 1, 2020 through December 31, 2020.

► PAID LEAVE ENTITLEMENTS

Generally, employers covered under the Act must provide employees:

Up to two weeks (80 hours, or a part-time employee's two-week equivalent) of paid sick leave based on the higher of their regular rate of pay, or the applicable state or Federal minimum wage, paid at:

- 100% for qualifying reasons #1-3 below, up to \$511 daily and \$5,110 total;
- $\frac{2}{3}$ for qualifying reasons #4 and 6 below, up to \$200 daily and \$2,000 total; and
- Up to 10 weeks more of paid sick leave and expanded family and medical leave paid at $\frac{2}{3}$ for qualifying reason #5 below for up to \$200 daily and \$12,000 total.

A part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.

► ELIGIBLE EMPLOYEES

In general, employees of private sector employers with fewer than 500 employees, and certain public sector employers, are eligible for up to two weeks of fully or partially paid sick leave for COVID-19 related reasons (see below). Employees who have been employed for at least 30 days prior to their leave request may be eligible for up to an additional 10 weeks of partially paid expanded family and medical leave for reason #5 below.

► QUALIFYING REASONS FOR LEAVE RELATED TO COVID-19

An employee is entitled to take leave related to COVID-19 if the employee is unable to work, including unable to telework, because the employee:

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| <ol style="list-style-type: none">1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;2. has been advised by a health care provider to self-quarantine related to COVID-19;3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2); | <ol style="list-style-type: none">5. is caring for his or her child whose school or place of care is closed (or child care provider is unavailable) due to COVID-19 related reasons; or6. is experiencing any other substantially-similar condition specified by the U.S. Department of Health and Human Services. |
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► ENFORCEMENT

The U.S. Department of Labor's Wage and Hour Division (WHD) has the authority to investigate and enforce compliance with the FFCRA. Employers may not discharge, discipline, or otherwise discriminate against any employee who lawfully takes paid sick leave or expanded family and medical leave under the FFCRA, files a complaint, or institutes a proceeding under or related to this Act. Employers in violation of the provisions of the FFCRA will be subject to penalties and enforcement by WHD.



WAGE AND HOUR DIVISION
UNITED STATES DEPARTMENT OF LABOR

For additional information
or to file a complaint:

1-866-487-9243

TTY: 1-877-889-5627

dol.gov/agencies/whd



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