



State of Arkansas Public Health Emergency Leave Policy FAQs Related to COVID-19 As of August 17, 2020

BACKGROUND

There are many types of human coronaviruses including some that commonly cause mild upper-respiratory tract illnesses. COVID-19 is a new disease caused by a novel (or new) coronavirus that has not previously been seen in humans.

For more information on COVID-19, questions regarding signs of illness, or how to determine whether you should self-quarantine after coming into contact with an exposed individual, please visit the Arkansas Department of Health (ADH) [website](#), call ADH at 1-800-803-7847, or go to the Center for Disease Control (CDC) [website](#) for updates. The Public Health Emergency Policy, Amendment, Guidance, and these FAQs are not intended to replace CDC or ADH guidance regarding health risks, medical diagnosis, or symptoms during this public health emergency.

DEPARTMENT MANAGEMENT

What is the State's approach for state employees exposed to COVID-19 or state employees exhibiting symptoms of the COVID-19 virus?

Employees who have been exposed or exhibit the symptoms of COVID-19 (based on [CDC guidance](#)) shall not physically come to work. Employees who have been exposed or exhibit the symptoms of COVID-19 will receive FFCRA Sick Leave for up to 80 hours. See the [Public Health Emergency Leave Compliance](#) for details.

What is the State's approach on informing state employees if there has been a positive case in the workplace?

Confidentiality around an employee's health should be maintained to comply with state and federal law. You may not disclose the identity of any employee who has been exposed, exhibiting symptoms, or who has tested positive. You may, however, provide general information (e.g., affected building, affected floor, or dates of exposure) that an employee has been infected to allow employees to monitor themselves for signs of symptoms.

What actions can Departments take if there is a suspected case or a State employee is exhibiting symptoms and he or she isn't pursuing evaluation or testing?

If an employee is exhibiting signs of illness based on [CDC guidance](#), Department Secretaries or their designees may send employees home to limit the spread of communicable illnesses. Departments are not to give a medical diagnosis but rather exercise the current authority to send employees home when the employee appears to be ill, it impacts an employee's ability to perform his or her work, or it impacts the health of others.

GENERAL

What is the State's approach regarding personal travel for State employees?

Personal travel is not prohibited, but employees should use common sense in making decisions and follow guidance from ADH or CDC. State employees are subject to the [Arkansas Public Health Emergency Leave Policy](#).

Is remote work highly encouraged or required where possible?

The opportunity to work remotely for employees whose job duties may be performed remotely (and subject to factors outlined in [Arkansas's Public Health Emergency Remote Work Policy](#)) is determined

by the Secretary of the Department. The degree with which remote work is implemented in a Department is also determined by the Secretary of the Department.

What is Director's Authorized Leave?

Director's Authorized Leave is paid leave. It is a function in Arkansas's payroll system that allows for an employee to get paid during time off without using his or her own leave.

Please refer to the [Public Health Emergency Leave Policy Amendment](#) for details on when Director's Authorized Leave may be used.

What is accrued leave?

Accrued leave refers to all types of leave that an employee may obtain while in State Government, including but not limited to sick, annual, Arkansas Healthy Employee Lifestyle Program Leave, holiday, birthday, Child Educational Activities Leave, and compensatory leave.

Who is considered a critical employee necessary for the function of government who must report to work on-site?

A critical employee necessary for the function of government who must report on-site is determined by the Department Secretary. An employee's Department will inform the employee of his or her status.

What happens if I'm considered a critical employee necessary for the function of government who must report to work on-site, but I decide not to report to work?

Each situation will be reviewed on a case-by-case basis and critical employees who are required to report to work on-site may be subject to disciplinary action for willful failure to report or remain at work.

If a critical employee who must report to work on-site becomes sick or is quarantined due to COVID-19, then FFCRA Sick Leave shall be used for the duration of the illness or quarantine, or both.

What is the State's approach for State employees with underlying health conditions or those considered immune suppressed during a COVID-19 emergency?

Employees not ill but asking to work remotely because they are immune-compromised or have other high-risk factors should contact their Department regarding the opportunity to work remotely. The opportunity to work remotely and the degree with which it is implemented in the Department is determined by the Secretary of the Department. In making these decisions, the Department may rely on guidance from ADH, CDC, or the employee's health-care provider

Can employees be sent home if they appear to be ill?

Yes. To prevent potential exposure of others, an employee may be asked to go home if he or she is showing symptoms of COVID-19. The decision to send an employee home who is exhibiting these symptoms is to be made on a case-by-case basis.

How can I protect myself while at work?

Basic preventative measures include frequent hand washing, covering your nose and mouth with your sleeve if you cough or sneeze, avoiding touching your eyes, nose, or mouth with your hands, and using antibacterial wipes on frequently touched public surfaces. Please visit the [CDC guidelines](#) for more information.

What assistance is available to State employees to help cope with the emotional impact of the situation?

The State provides resources to help employees and eligible dependents cope with these types of life events through its [Employee Assistance Program](#). Contact the Employee Assistance Program 24-hours a day at 1-877-300-9103.

What about extra-help employees?

For extra-help employees reporting to work on-site and those working remotely, they will enter their time as usual, work their usual hours, and receive their usual pay. Extra-help employees are eligible for FFCRA Sick Leave (up to the equivalent of two weeks' worth of hours) and FFCRA FMLA Leave (up to the equivalent of 12 weeks' worth of hours) if they meet the criteria.

What is the guidance for Departments on utilizing equipment to work remotely?

Departments should consider if employees will need remote access to important State systems, and if equipment will be needed for employees to work from home (e.g., laptops, internet connection, printing capabilities). Departments are not required to provide a work cell phone to employees who do not currently have a work cell phone. Employees must have a cell phone (personal or work-issued) and an available workspace to work remotely. See [Arkansas's Public Health Emergency Remote Work Policy](#) for guidance.

What is the Families First Coronavirus Response Act (FFCRA)?

The FFCRA requires certain employers to provide employees with paid sick leave (FFCRA Sick Leave) or expanded family and medical leave (FFCRA FMLA Leave) for specified reasons related to COVID-19. The specific requirements are outlined in the [Public Health Emergency Leave Compliance](#). These provisions will apply from April 1, 2020, through December 31, 2020.

Do Departments need to code FFCRA Sick Leave (if applicable) and FFCRA FMLA Leave (if applicable) prior to using Director's Authorized Leave (if applicable) or accrued leave?

Yes.

Do I qualify for FFCRA Sick Leave or FFCRA FMLA Leave?

Under the FFCRA, employees identified in Category 1 are excluded from receiving FFCRA Sick Leave and the FFCRA FMLA Leave for childcare purposes. Category 1 employees under State policy fall into the emergency responder or healthcare provider definition as outlined in the FFCRA and other guidance. Additionally, some Category 2 employees fall into the emergency responder or healthcare provider definition and are excluded from receiving FFCRA Sick Leave and the FFCRA FMLA Leave for childcare purposes. The Secretary of the Department has discretion to identify Category 2 employees as emergency responders or healthcare providers. The FFCRA strikes a balance, as described in the Department of Labor's temporary rule implementing the FFCRA:

The authority for employers to exempt emergency responders is reflective of a balance struck by the FFCRA. On the one hand, the FFCRA provides for paid sick leave and expanded family and medical leave so employees will not be forced to choose between their paychecks and the individual and public health measures necessary to combat COVID-19. On the other hand, providing paid sick leave or expanded family and medical leave does not come at the expense of fully staffing the necessary functions of society, including the functions of emergency responders. The FFCRA should be read to complement—and not detract from—the work being done on the front lines to treat COVID-19 patients, prevent the spread of COVID-19, and simultaneously keep Americans safe and with access to essential services.

Employees identified as emergency responders or healthcare providers include but are not limited to military or national guard, law enforcement officers, correctional institution personnel, fire fighters, emergency medical services personnel, physicians, nurses, public health personnel, emergency medical technicians, paramedics, emergency management personnel, 911 operators, public works personnel, and persons with skills or training in operating specialized equipment or other skills needed to provide aid in a declared emergency as well as individuals who work for such facilities employing these individuals and whose work is necessary to maintain the operation of the facility. The Department of Homeland Security advises that emergency responders and healthcare providers also include employees who work

at staffing operations centers, maintain and repair critical infrastructure, operate call centers, work construction, and perform operational functions. As defined by the USA Patriot Act of 2001, critical infrastructure includes any “systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems and assets would have a debilitating impact on security, national economic security, national public health or safety, or any combination of those matters.” Therefore, the definitions of emergency responder and healthcare provider are interpreted broadly, and the Secretary of the Department has discretion to deem employees as an emergency responder or healthcare provider.

Under the State policy, emergency responders and healthcare providers shall receive FFCRA Sick Leave if quarantined (pursuant to federal, State, or local government order or advice of a health-care provider), experiencing COVID-19 symptoms and seeking a medical diagnosis, or diagnosed with COVID-19.

Under the State policy, employees identified as emergency responders or healthcare providers may not receive FFCRA Sick Leave for the need to care for a child or to care for an individual subject to quarantine or if experiencing a substantially similar condition that is not COVID-19. Providing FFCRA Sick Leave in those situations is at the discretion of the Department Secretary.

Under the State policy, employees identified as emergency responders or healthcare providers shall not receive FFCRA FMLA Leave.

Can I substitute paid FFCRA Sick Leave for the first two weeks of unpaid FFCRA FMLA Leave?

Yes.

Is FFCRA FMLA Leave or a remote work opportunity available if my child has the option for on-site education for a full week?

If on-site education for a full week is offered at the student’s school, FFCRA FMLA Leave is not applicable because schools that offer on-site education for a full week are not “closed or unavailable” due to COVID-19. State employees who choose to opt-in to remote learning or hybrid on-site education and remote learning for their children when on-site education for a full week is offered at the child’s school may not be authorized for remote work.

What do I do if my child attends a private school and only remote learning is offered or hybrid on-site education and remote learning is offered?

State employees identified in Category 2 who must stay home to supervise or care for their children because of school closure or unavailability in response to COVID-19 may remote work. (Accrued Leave must still be used for school closures not related to COVID-19 like parent-teacher days or scheduled fall and spring breaks.) Remote work is at the respective Department Secretary’s discretion.

In the case of hybrid on-site education and remote learning when a full week of on-site education is not offered by the school, State employees identified in Category 2 may be allowed to remote work on the days their children are remote learning and State employees identified in Category 2 will be expected to work on-site on days their children receive on-site education.

If State employees identified in Category 2 or Category 3 are unable to work remotely and on-site education is not offered by the school, then they qualify for FFCRA FMLA Leave for the days they must stay at home with their children.

State employees identified in Category 1 may not qualify for remote work or FFCRA FMLA Leave. Any requests for remote work or FFCRA FMLA Leave from a State employee identified in Category 1 will be handled on a case-by-case basis depending on the job duties, length and type of need, Department-specific requirements, and any other relevant factors.