



Staff Recommendation

DOL Releases FFCRA Documentation and Recordkeeping Regulations

The U.S. Department of Labor (DOL) has issued regulations that provide employees must give notice to their employers of the need to take leave and must provide supporting documentation for requests for emergency paid sick leave and paid FMLA leave. The following are the documentation and recordkeeping requirements.

NOTE: The Internal Revenue Service (IRS) has provided guidance on required documentation to receive tax credits associated with FFCRA's leave provisions; we recommend employers contact their CPA or accounting firm regarding IRS requirements.

FFCRA DOCUMENTATION REQUIREMENTS

Before taking leave under the FFCRA, employees are required to provide their employer with the following:

- the employee's name;
- dates for which leave is requested;
- the qualifying reason for leave; and
- a statement that the employee is unable to work because of the qualified reason for leave.

An employee seeking leave due to an isolation or quarantine order must also provide the name of the government entity that issued the quarantine or isolation order.

An employee seeking leave because he or she is self-quarantined or is experiencing symptoms and is seeking a medical diagnosis must also provide the name of the health care provider. An employee caring for a person who is quarantined must also provide either the government entity that issued the quarantine or isolation order or the name of the health care provider who advised the individual to self-quarantine.

An employee requesting leave for childcare must also provide:

- the name of the child being cared for;
- the name of the school, place of care or child care provider that closed or became unavailable due to COVID-19; and
- a statement representing that no other suitable person is available to care for the child during the period of requested leave.

The employer may also request that the employee provide any additional information that would be needed in order for the employer to support a request for tax credits.

If an employee fails to provide required documentation, employers should give the employee notice in writing of the failure and a reasonable opportunity to provide the required documentation prior to denying the request for leave.

Employers that are covered by traditional FMLA requirements (those that applied before enactment of the FFCRA) remain covered. The typical FMLA certification rules apply to an employee's own serious health condition and to the employee's need to care for a spouse, son, daughter, or parent with a serious health condition.

RECORDKEEPING REQUIREMENTS

Employers must retain for four (4) years all documentation provided by an employee who is documenting his or her need for paid leave, regardless of whether the request for leave is granted or denied.

SESCO Management Consultants will continue to monitor and report on developments with respect to the COVID-19 pandemic and will post updates in the firm's [COVID-19 Resource Center](#) as additional information becomes available.

SESCO retainer clients and members of select associations can call or email SESKO to discuss specific industry, state and/or company questions and concerns. Those receiving these alerts that are not SESKO clients can contact SESKO by phone, fax or email to explore support options.

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