AFSCME Facts

Federal COVID-19-Related Leave Requirements
January 11, 2021

The lame duck legislative deal in Congress, known as the Consolidated Appropriations Act (CAA), 2021, included minor updates to the paid leave provisions of the Families First Coronavirus Response Act (FFCRA). Unfortunately, it did not extend the FFCRA's mandatory paid sick and family leave beyond December 31, 2020. The legislation only extended the federal tax credits available to eligible employers who voluntarily provide FFCRA-qualifying leave through March 31, 2021.

<u>What leave requirements were included in the FFCRA?</u>

Generally, the FFCRA required private employers with fewer than 500 employees and certain public employers to provide employees with two types of leave for specified reasons related to COVID-19:

- Two weeks of emergency paid sick leave that is fully paid (capped at $511 per day and $5,110 total) to care for oneself or paid at two-thirds of the employee's regular rate of pay (capped at $200 per day and $2,000 total) to care for others.
- Up to 12 weeks of expanded family and medical leave, with first two weeks unpaid, then remainder paid at two-thirds of the employee's regular rate of pay (capped at $200 per day and $2,000 total).

In addition, the law included large tax credits for private-sector employers that generally covered the entire costs of this leave. This leave mandate covered the period of April 1, 2020 through December 31, 2020.

<u>What happened to FFCRA leave after December 31, 2020?</u>

The mandated leave expired on December 31, 2020, so employers are no longer required to provide FFCRA leave. The U.S. Department of Labor (DOL) will continue to enforce the FFCRA provisions for leave taken before December 31, 2020, so employers must still pay employees for any FFCRA leave taken by that date.

<u>Were any leave requirements included in the CAA?</u>

No. The legislation did not in any way extend the FFCRA leave requirements or include any additional leave mandates. Therefore, employers have no legal obligation to provide FFCRA leave beyond December 31, 2020.

American Federation of State, County and Municipal Employees, AFL-CIO
1625 L Street, NW, Washington, DC 20036-5687 afscme.org TEL (202) 429-1215 FAX (202) 223-3255

Were any incentives to provide paid leave included in the CAA?

Yes. Private-sector employers that voluntarily provide leave in line with the FFCRA provisions can continue to receive a federal tax credit for that leave when taken through March 31, 2021. The CAA did not increase the maximum length of FFCRA (two weeks of sick leave and 12 weeks of family and medical leave), so employers may not claim tax credits for any additional leave provided to employees who have already used up these allotments. That is, the maximum leave for which an employer can claim a tax credit counts leave taken in 2020 and 2021.

Where can I find additional information about the FFCRA leave?

- Our previous fact sheet dated March 29, 2020, "New Leave Requirements Mandated by Congress for COVID-19," provides more details concerning the kinds of FFCRA leave, qualifying reasons for taking leave and who is eligible for the leave.
- DOL maintains a FFCRA Questions and Answers page that provides workers and employers with guidance concerning the rights and responsibilities under the law. As of January 8, 2021, DOL had added one question and answer (#104) addressing the CCA.
- The Internal Revenue Service (IRS) provides information and resources concerning the sick and family leave federal tax credits that can be claimed by employers. As of January 8, 2021, the IRS had not updated this webpage to include information about the CCA.