

COVID-19 Information from NDACo

Emergency Sick Leave and Expansion of FMLA

North Dakota Association of Counties (NDACo) has shared with NDRPA pertinent information regarding the Family First Corona Response Act (FFCRA).

The information below and the [FFCRA - Policy Amendment](#), which may be included as part of your policy handbooks in response to recent federal legislation, have been shared with the North Dakota State's Attorney by NDACo's legal counsel, Aaron Birst. Please find below the information provided by Birst for your reference:

These changes deal with the two major provisions found in the FFCRA (which Birst refers to as Stimulus #2).

The Federal Government has mandated six new categories of employees which are now entitled to 80 hours of paid sick leave (part time employee's hours are reduced to the two week average):

1. The employee is subject to a Federal, State, or local quarantine or isolation order related to COVID-19.
2. The employee has been advised by a health care provider to self-quarantine due to concerns related to COVID-19.
3. The employee is experiencing symptoms of COVID-19 and seeking a medical diagnosis.
4. The employee is caring for an individual who is subject to an order as described in subparagraph (1) or has been advised as described in paragraph (2).
5. The employee is caring for a son or daughter of such employee if the school or place of care of the son or daughter has been closed, or the child care provider of such son or daughter is unavailable, due to COVID-19 precautions.
6. The employee is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services in consultation with the Secretary of the Treasury and the Secretary of Labor.

Additionally the Family Medical Leave Act (FMLA) was expanded to allow for 2/3 salary payment for those in category #5 which need leave to watch their kids because of a closed school/day care. I

think this model policy accurately reflects those requirements.

As you can imagine this is extremely complicated and the US Department of Labor administrative rules are 133 pages long so there will be situations that arise that may need further discussion between the employee and the employer but this should get us all started. A few things to keep in mind:

1. None of this applies to those who can still work whether it is their regular place of work (obviously) or teleworking. Those hours are still considered work even though it may be less efficient than normal. I would hope you can find work for most employees to continue to do so as to avoid having to go down the sick leave/vacation route. But if the situation arises that someone cannot work because of one of those six categories then these policies will come into play.
2. As with all Federal Employment Law – the feds only set the floor for employees. Employers can always modify to be more generous to the employee if they so choose
3. These Rules apply to ALL governments (the rules could be superseded by collective bargained contract rights i.e. schools/teachers)
4. Private employers will get reimbursed for these expenditures by getting tax credits but there is NO reimbursement for government employers
5. Maybe some of you or your HR departments have already developed your policies so this is not intended to redo the great work already done

THESE LAW CHANGES WENT INTO EFFECT APRIL 1.