Families First Coronavirus Response Act (FFCRA)
Frequently Asked Questions

How do I apply for the Emergency Paid Sick Leave Act or Expanded Family and Medical Leave Act under the FFCRA?
The "Application for Benefits under the Emergency Paid Sick Leave Act and/or Expanded Family Medical Leave Act" is available online. Employees applying for the paid sick leave benefits will need to provide supporting documentation from a qualified health care provider. Employees applying for the expanded family and medical leave benefit will need to provide additional documentation supporting the need for leave due to the closing of a school or place of child care. For example, this could include a notice that has been posted on a government, school, or day care provider website, or an email from an employee or official of the school or place of child care.

Do the benefits apply to all Washburn employees?
Yes, all Washburn employees (e.g., student employees, non-benefit eligible, benefit eligible) are eligible to apply for the Emergency Paid Sick Leave Act or Expanded Family and Medical Leave Act benefits under the FFCRA.

Is there a waiting period before I am eligible for these benefits?
There is not a waiting period to apply for the emergency paid sick leave. The expanded family and medical leave benefits requires employment for at least 30 days prior to leave.

May I take 80 hours of paid sick leave for my self-quarantine and then another amount of paid sick leave for another reason provided under the Emergency Paid Sick Leave Act?
No. You may take up to two weeks—or ten days—(80 hours for a full-time employee, or for a part-time employee, the number of hours equal to the average number of hours that you work over a typical two-week period) of paid sick leave for any combination of qualifying reasons. However, the total number of hours for which you receive paid sick leave is capped at 80 hours under the Emergency Paid Sick Leave Act.

If I am home with my child because his or her school or place of care is closed, or child care provider is unavailable, do I get paid sick leave, expanded family and medical leave, or both—how do they interact?
You may be eligible for both types of leave, but only for a total of twelve weeks of paid leave. You may take both paid sick leave and expanded family and medical leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons. The Emergency Paid Sick Leave Act provides for an initial two weeks of leave paid at 2/3 of your regular rate of pay. This period thus covers the first ten workdays of expanded family and medical leave, which are otherwise unpaid under the Expanded Family Medical Leave Act unless you elect to use existing personal leave. After the first ten workdays have elapsed, you will receive 2/3 of your regular rate of pay for the hours you would have been scheduled to work in the subsequent ten weeks under the Expanded Family Medical Leave Act.

Please note that you can only receive the additional ten weeks of expanded family and medical leave under the Expanded Family and Medical Leave Act for leave to care for your child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

Is all expanded family and medical leave paid leave?
No. The only type of family and medical leave that is paid leave is expanded family and medical leave under the Expanded Family and Medical Leave Act when such leave exceeds ten days. This includes only leave taken because the employee must care for a child whose school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons.

Are the paid sick leave and expanded family and medical leave requirements retroactive?
No.

What does it mean to be unable to work, including telecommute, for COVID-19 related reasons?
You are unable to work if one of the COVID-19 qualifying reasons identified in the FFCRA prevents you from being able to perform work either under normal circumstances at your normal worksite or by means of telecommuting.

If you and your supervisor agree that you will work your normal number of hours, but outside of your normally scheduled hours (for instance early in the morning or late at night), then you are able to work and leave is not necessary unless a COVID-19 qualifying reason prevents you from working that schedule.

May I take my paid sick leave or expanded family and medical leave intermittently while telecommuting?
If you are unable to telecommute your normal schedule of hours due to one of the qualifying reasons in the Emergency Paid Sick Leave Act you may be eligible for intermittent leave. In that situation, you may take paid sick leave intermittently (subject
Families First Coronavirus Response Act (FFCRA) Frequently Asked Questions

to supervisor approval) while telecommuting. Similarly, if you are prevented from telecommuting your normal schedule of hours because you need to care for your child whose school or place of care is closed, or child care provider is unavailable, because of COVID-19 related reasons, you can take expanded family medical leave intermittently (subject to supervisor approval) while telecommuting.

May I take my expanded family and medical leave intermittently while my child’s school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, if I am not telecommuting?
Yes, but only with your supervisor’s permission. Intermittent expanded family and medical leave should be permitted only when you and your supervisor agree upon such a schedule. For example, if your supervisor and you agree, you may take expanded family and medical leave on Mondays, Wednesdays, and Fridays, but work Tuesdays and Thursdays, while your child is at home because your child’s school or place of care is closed, or child care provider is unavailable, due to COVID-19 related reasons, for the duration of your leave.

If I elect to take paid sick leave or expanded family and medical leave, will Washburn continue my health coverage?
You are entitled to continued group health coverage during your expanded family and medical leave on the same terms as if you continued to work. If you are enrolled in family coverage, you will maintain coverage during your expanded family and medical leave. You will be expected to continue to make any normal contributions to the cost of your health coverage.

If I elect to take paid sick leave or expanded family and medical leave, will Washburn continue contributing toward my employer provided tax deferred annuity?
Any employer provided tax deferred annuity contributions will continue as long as you receive pay, including any paid sick leave or expanded family and medical leave. If your pay is reduced to 2/3 rate of pay the employer contributions will be based on the 2/3 pay rate.

As an employee, may I use my Washburn’s preexisting leave entitlements and my FFCRA paid sick leave and expanded family and medical leave concurrently for the same hours?
No. If you are eligible to take paid sick leave or expanded family and medical leave under the FFCRA, as well as any paid leave benefits (e.g., sick leave, personal leave) that you have already accrued you must choose one type of leave to take. You may not simultaneously take both.

Who is a son or daughter?
Under the FFCRA, a “son or daughter” is your own child, which includes your biological, adopted, or foster child, your stepchild, a legal ward, or a child for whom you are standing in loco parentis—someone with day-to-day responsibilities to care for or financially support a child.

In light of Congressional direction to interpret definitions consistently, the Department of Labor’s Wage and Hour Division clarifies that under the FFCRA a “son or daughter” is also an adult son or daughter (i.e., one who is 18 years of age or older), who (1) has a mental or physical disability, and (2) is incapable of self-care because of that disability.

Do I qualify for leave for a COVID-19 related reason even if I have already used some or all of my leave under the Family and Medical Leave Act (FMLA)?
If you are an eligible employee, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA.

However, your eligibility for expanded family and medical leave depends on how much leave you have already taken during the rolling 12-month period Washburn uses for FMLA leave. You may take a total of 12 workweeks for FMLA or expanded family and medical leave reasons during a 12-month period. If you have taken some, but not all, 12 workweeks of your leave under FMLA during the current rolling 12-month period, you may take the remaining portion of leave available. If you have already taken 12 workweeks of FMLA leave during this rolling 12-month period, you may not take additional expanded family and medical leave.

For example, assume you are eligible for preexisting FMLA leave and took two weeks of such leave in January 2020 to undergo and recover from a surgical procedure. You therefore have 10 weeks of FMLA leave remaining. Because expanded family and medical leave is a type of FMLA leave, you would be entitled to take up to 10 weeks of expanded family and medical leave, rather than 12 weeks. And any expanded family and medical leave you take would count against your entitlement to preexisting FMLA leave.
Families First Coronavirus Response Act (FFCRA)
Frequently Asked Questions

May I take leave under the Family and Medical Leave Act over the next 12 months if I used some or all of my expanded family and medical leave under the Extended Family and Medical Leave Act?

It depends. You may take a total of 12 workweeks of leave during a rolling 12-month period under the FMLA, including the Expanded Family and Medical Leave Act. If you take some, but not all 12 workweeks of your expanded family and medical leave by December 31, 2020, you may take the remaining portion of FMLA leave for a qualifying serious health condition, as long as the total time taken does not exceed 12 workweeks in the rolling 12-month period. Please note that expanded family and medical leave is available only until December 31, 2020; after that, you may only take FMLA leave.

For example, assume you take four weeks of expanded family and medical leave in April 2020 to care for your child whose school is closed due to a COVID-19 related reason. These four weeks count against your entitlement to 12 weeks of FMLA leave in a 12-month period. If you are eligible for preexisting FMLA leave and need to take such leave in August 2020 because you need surgery, you would be entitled to take up to eight weeks of FMLA leave.

However, you are entitled to paid sick leave under the Emergency Paid Sick Leave Act regardless of how much leave you have taken under the FMLA. Paid sick leave is not a form of FMLA leave and therefore does not count toward the 12 workweeks in the 12-month period cap. But please note that if you take paid sick leave concurrently with the first two weeks of expanded family and medical leave, which may otherwise be unpaid, then those two weeks do count towards the 12 workweeks in the 12-month period.

If I take paid sick leave under the Emergency Paid Sick Leave Act, does that count against other types of paid sick leave to which I am entitled under Washburn’s policy?

No. Paid sick leave under the Emergency Paid Sick Leave Act is in addition to any other paid leave benefits you may be eligible for under Washburn’s existing leave policy.

Who is a “health care provider” for purposes of determining individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave?

The term “health care provider,” as used to determine individuals whose advice to self-quarantine due to concerns related to COVID-19 can be relied on as a qualifying reason for paid sick leave, means a licensed doctor of medicine, nurse practitioner, or other health care provider permitted to issue a certification for purposes of the FMLA.

Please contact benefits@washburn.edu with any additional questions.