# DETERMINING COVID-19 LEAVES OF ABSENCE THROUGH DECEMBER 31, 2020

FOR NEW YORK CITY EMPLOYERS WITH FEWER THAN 500 EMPLOYEES



## WHAT IS THE REASON FOR THE COVID-19-RELATED LEAVE REQUEST?

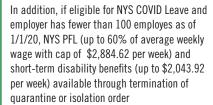
Employee subject to government quarantine order (includes shelterin-place and stay-at-home orders applicable to general public)



2 weeks of FFCRA emergency paid sick leave at regular rate (or minimum wage, if higher) up to a maximum of \$511 per day (\$5,110 in total) if employer has work and employee is unable to work or telework

Any greater benefits provided by NYS COVID Leave (e.g., 5 or 14 days of paid sick leave with no cap) if employee also is symptomatic and quarantine order is specific to employee (e.g., not the general public)

FFCRA emergency paid sick leave and NYS COVID Leave run concurrently <u>unless</u> employee initially takes leave of absence under FFCRA for a reason other than a government quarantine order, in which case employee may be eligible for FFCRA emergency paid sick leave followed by NYS COVID Leave





In addition, employee may elect to use accrued NYC ESSTA leave <u>after</u> FFCRA and/or NYS COVID Leave/NYS PFL if employee is ill



In addition, if employer has 50 or more employees and employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may be available



After exhausting all leaves above, consider unpaid leave of absence as a reasonable accommodation if employee still unable to return to work

Employer's business closed due to public health emergency



Employee may elect to use accrued NYC ESSTA leave

Employee experiencing symptoms and seeking medical diagnosis <u>or</u> advised by health care provider to self-quarantine



2 weeks of FFCRA emergency paid sick leave at regular rate (or minimum wage, if higher) up to a maximum of \$511 per day (\$5,110 in total) if unable to work or telework



In addition, employee may elect to use accrued NYC ESSTA leave <u>after FFCRA</u> emergency paid sick leave <u>or</u> if ineligible for FFCRA emergency paid sick leave



In addition, if employer has 50 or more employees and employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may be available



After exhausting all leaves above, consider unpaid leave of absence as a reasonable accommodation if employee still unable to return to work

Employee caring for child whose school or child care provider is closed or unavailable



2 weeks of FFCRA emergency paid sick leave at 2/3 regular rate (or minimum wage, if higher) up to a maximum of \$200 per day (\$2,000 in total)

10 weeks of FFCRA emergency paid FMLA leave up to a maximum of \$200 per day (\$10,000 in total)



In addition, employee may elect to use accrued NYC ESSTA leave <u>after FFCRA</u> emergency paid sick leave and emergency paid FLMA leave <u>or</u> if ineligible for FFCRA emergency paid sick leave or emergency paid FMLA leave

### **DEFINED TERMS**

FFCRA = Families First Coronavirus Response Act
NYS COVID Leave = New York State COVID-19 Quarantine Leave
NYS PFL = New York State Paid Family Leave
NYC ESSTA = New York City Earned Safe and Sick Time Act

FMLA = Family and Medical Leave Act

Employee caring for individual subject to government quarantine order <u>or</u> advised by health care provider to self-quarantine



2 weeks of FFCRA emergency paid sick leave at 2/3 regular rate (or minimum wage, if higher) up to a maximum of \$200 per day (\$2.000 in total) if unable to work or telework



In addition, if caring for dependent minor child, NYS PFL available during quarantine (up to 60% of average weekly wage with cap of \$840.70 per week)

In addition, if caring for a family member with a "serious health condition," up to 10 weeks of NYS PFL may be available



In addition, if individual is family member, employee may elect to use accrued NYC ESSTA leave <u>after</u> FFCRA emergency paid sick leave and NYS PFL <u>or</u> if ineligible for FFCRA emergency paid sick leave or NYS PFL



In addition, if employer has 50 or more employees and employee worked 1,250+ hours over past 12 months, traditional unpaid FMLA leave may be available

Employee generally uncomfortable about returning to work



Engage in cooperative dialogue with employee, determine whether concerns are the result of a protected disability, and consider if unpaid leave of absence or another accommodation may be required

If unpaid leave of absence or another accommodation (such as working from home) is not required or reasonable under applicable laws or employer policies, consider terminating employee's employment in consultation with counsel

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