

COVID-19: Today's To-Dos

By: Julie Pugh on March 25, 2020 on graydon.law

Well, the DOL graced us with another short night of sleep by [publishing updated guidance](#) giving both employers and employees additional information on the March 18, 2020 Family First Coronavirus Response Act (FFCRA) late last night.

The FFCRA, among other provisions, requires employers with less than 500 employees to provide Paid Sick Leave and paid Emergency FMLA Leave for eligible employees who request leave from work due to certain reasons (more on that [from Monday's blog here](#)).

Today, leaders need a checklist (I love checklists ... but I digress). Here is an FFCRA Checklist for March 25, 2020, designed for all businesses of all sizes.

✓ First, take a deep breath. I agree that all of this is confusing, difficult, and ever changing. However, nothing in the updated guidance places additional burden on employers. Keep in mind the spirit of the law, which is to help take care of sick employees and their families.

✓ Calendar April 1, 2020 (no joke!) as the effective date of the FFCRA (payroll providers rejoice!)

✓ Determine whether the 500 employee exemption applies.

- Here's the tricky part - it applies on the date the employee requests leave. So you can determine now, but you will have to assess this each time someone requests leave.
- The 500 headcount includes full-time and part-time employees, employees on leave, and jointly employed employees, and day laborers (again, on the day the employee requests the leave).
- The guidance incorporates the integrated employer test, which is what we've been using with our clients since it passed. If you are unfamiliar, call your competent employment counsel and walk through the analysis.
- Make sure your payroll headcount matches your calculation when you determine applicability. Consistent documentation will be key in the future!

✓ Do not make any changes to paid time off policies before April 1, 2020. The law is not retroactive, and even though the tax credits were made immediately available on March 20, 2020, the law is not effective until April 1, 2020 (again, I giggle. It's not a joke).

√ If you have not already, contact your payroll provider or edit your payroll to add payroll codes. Again, consistent and accurate documentation will be key in recouping 100% of the funds through your payroll taxes. I suggested this in our blog here:

- CV PSL - Coronavirus Paid Sick Leave
- CV EFMLA - Coronavirus Paid Emergency FMLA leave

√ Make sure these payroll codes have an end date of December 31, 2020. For now, it's only temporary.

√ Create or source employee communication documents. Graydon created a coronavirus leave request form. We encourage our clients to call and request a copy.

√ Review your health plan with your counsel, broker or consultant to determine if you must continue coverage during the leave. Employers with 50 or more employees must continue health plan coverage at active employee rates during FMLA coverage. Smaller employers may have an obligation as well depending on the terms of your plan.

√ Support your people. States and local governments ordered people to stay at home unless the business is "essential." Some are afraid. Some are caring for parents, children, and themselves all under one roof (and may be low on toilet paper). Many routines have been disrupted.

- Graydon created a sample form for essential employees to carry in their cars when going to and from work. Some jurisdictions require such notes if an employee is stopped, and some don't. Even if they don't, it might help an employee feel better that the company is thinking ahead.

√ Take care of yourself. Here's a good [list of to-dos from SHRM](#).

√ Again, take a deep breath. The guidance clarifies that an employee is entitled to only a maximum of 80 hours of sick leave, and up to 12 weeks of leave total when combining PSL and EFMLA.

We've got this. Stay tuned. Be well!