

GUIDANCE FOR FACULTY REQUESTS FOR LEAVE DUE TO SCHOOL OR DAYCARE CLOSURE, CHILD CARE COMMITMENT

The guidance documents for both *Covid-19 Paid Administrative Leave (CPAL)* and **Emergency Paid Sick Leave Expansion Act/ Families First Coronavirus Response Act (ESPLA/FFCRA)** are linked below. An FAQ document on *Partial Day or Partial Timebase Leaves for Faculty Under FFCRA* has been sent along with this document.

CPAL

CPAL may only be used in full day increments. Faculty are exempt employees under the Fair Labor Standards Act (FLSA) and do not take paid leave in less than full day increments. As a result, exempt employees are excluded from using CPAL for partial days, regardless of their timebase. It is *possible* for some faculty to use CPAL for a partial timebase leave under limited circumstances, as outlined below, but it can only be used in full day increments. Faculty work is not exclusively performed on the days they teach. Teaching days also generate work (course preparation, grading, etc.) on other days of the week. For example, if a full-time tenure-track faculty member teaches on Tuesday and Thursday only, and they request Tuesday and Thursday off, CPAL would be impractical because there would be no residual work generated from the “teaching days” to perform on the remaining days of the week. Since .2 of their timebase is dedicated to 3 semester WTU of indirect (service, committee work, etc.), this would result in the need to take four days (.8 is the instructional assignment) of CPAL, not just the two days they teach. Therefore, in order to grant CPAL for the two days a person teaches, additional full days would need to be taken to account for the .8 leave. For temporary faculty who teach FT, full-day increments are also required, and, in most cases, all 15 WTU are assigned to teaching, a request for CPAL applied to only teaching days would also result in the need to take additional CPAL days due the residual work created on the teaching days.

For temporary faculty with a less than full-time timebase, the number of hours shall be prorated according to the timebase of the appointment; however, the same challenges exist. For example, if a faculty member teaches three classes on Monday, Wednesday, and Friday, it would not be possible to use CPAL to cover one of the three classes as a timebase reduction because CPAL must be taken in full day increments and can't be used for partial day leaves.

CPAL, in general, is impractical for a timebase reduction, because faculty work doesn't conform neatly into five eight-hour day segments per week; however, if your campus determines that CPAL may be used to grant full day increments intermittently on certain days where it is possible (for example, if a faculty member teaches a single class on a single day, perhaps a Friday-only class that meets for three hours when the other five hours on that same day could reasonably be considered as the remaining time needed to complete the work for that class, CPAL could be used one day per week). Please be reminded that CPAL is limited to 256 hours or 32 full day increments through December 31.

One important tenet of CPAL remains. While the faculty can request CPAL, it is not an absolute. *CPAL can only be arranged in consultation with the supervisor, provided that such use shall not adversely affect the delivery of essential university services.* For the purpose of CPAL, instruction is an essential university service. In addition, if the school or daycare is open, CPAL and FFCRA are not available.

FFCRA

When a faculty member requests FFCRA for school closures and childcare issues, the following process is recommended:

- You are not required to automatically approve the leave under FFCRA just because the employee submitted a request and submitted appropriate supporting documentation.
- You may engage first in informal dialogue with the faculty member to understand the request.
- The appropriate administrator(s), as determined by your campus, may engage in additional and more formal “dialogue” or “consultation” after an official request has been received in writing.
- You may ask for supporting documentation to confirm the school is 100% online/closed or partially online. You may even ask for “registration” to confirm the child is enrolled.
- The supervisor may consider alternative work schedules/solutions (including asynchronous instruction, changing the days and times a class meets, etc.) to help with conflicts to work and need to support the child/children.
- **Unlike CPAL, you cannot deny a request simply because you deem the work essential.**

Since FFCRA can be granted for partial timebase leaves, it is much more practical for faculty requests. Please see the attached FAQs for information on calculating/converting WTU/timebase to hours.

FFCRA may be applied in the following manner/sequence:

Emergency Paid Sick Leave Act (EPSLA)

Two weeks (up to 80 hours) of **paid sick leave** when faculty must care for a child whose school or childcare provider is closed or unavailable for reasons related to COVID-19. If the need for paid sick leave under EPSLA is for childcare reasons, the employee may request to cover this leave under EFMLEA to avoid having to use other paid leave or go unpaid for the first two weeks of EFMLEA.

Emergency Family and Medical Leave Expansion Act (EFMLEA)

Up to an additional 12 weeks of **expanded family and medical leave** by adding a new reason to qualify for Family and Medical Leave Act (FMLA), of which 10 weeks are paid and when an employee, who has been employed for at least 30 calendar days, is unable to work (or telework) due to a bona fide need for leave to care for a child whose school or childcare provider is closed or unavailable for reasons related to COVID-19.

When the available hours from FFCRA have been exhausted, the campus may allow for the use of sick leave hours in order to complete the term before December 31. If no hours remain, unpaid leave will be necessary to complete the term.

Family and Medical Leave Act (FMLA, not covered under FFCRA)

Faculty with children who have special needs or a serious medical condition and on campus instruction for the child is not an option or the condition requires the faculty member to oversee remote learning of the child during COVID-19, may be able to use unpaid FMLA leave (full or partial day). Campuses can require documentation from the faculty member, signed by a doctor, testifying to the child's medical needs because of a developmental disability or other FMLA-qualifying serious health condition. Unpaid FMLA leave can be paid through use of sick leave.

Link to CPAL Technical Letter:

<https://cyou.calstate.edu/Policies/HRPolicies/TL-LVS2020-02.pdf#search=CPAL>

Link to FFCRA Technical Letter:

<https://cyou.calstate.edu/Policies/HRPolicies/TL-LVS2020-03.pdf#search=CPAL>