

Memorandum

To: Employees in Essential Personnel Departments
From: Division of Human Resources
Date: September 28, 2020
Subject: Essential Personnel Redefined per Update to the FFCRA: Family Medical Leave – Expansion

The Department of Labor (DOL), Wage and Hour Division has issued a revision and clarification to the Families First Coronavirus Response Act (FFCRA) temporary rule effective September 16, 2020.

The FFCRA rule allowing post-secondary educational institutions offering healthcare instruction and healthcare services to broadly exclude health care providers under the Act has been revised and clarified. Specifically, the definition of a health care provider was clarified and must be identified by focusing on the role and duties of those employees rather than the employer. To see the DOL's definition of a health care provider go to the [Families First Coronavirus Response Act: Questions and Answers](#). The DOL stated, "A person is not a health care provider merely because his or her employer provides health care services or because he or she provides a service that affects the provision of health care services. For example, IT professionals, building maintenance staff, human resources personnel, cooks, food services workers, records managers, consultants, and billers are not health care providers, even if they work at a hospital of a similar health care facility."

In light of the new ruling, UNM has modified our definition of essential personnel in compliance with the DOL revisions. Employees working at the Health Sciences Center (HSC) and others in critical campus operations¹ who are employed in roles defined as a health care provider or emergency responder under the DOL's definitions will continue to only be eligible for the E-PSL and will not be eligible for coverage under the E-FML. Supervisors of these employees not eligible for E-FML, are encouraged to provide the maximum flexibility during this difficult time period and to allow use of accrued sick and annual leave where appropriate. We deeply appreciate the critical work of these employees and encourage them to follow-up on child care opportunities. For resources see hr.unm.edu/cv19/childcare. To review the list of revised essential personnel titles, view hr.unm.edu/docs/hr/ffcra-essential-personnel-titles.pdf.

For those employees eligible for E-FML, it provides up to 10 weeks of paid leave for the care of a child under the age of 18, whose school or place of care has closed due to COVID-19. Employees approved for E-FML are required to take annual leave concurrently with E-FML; after annual leave is exhausted, employees are entitled to pay at 2/3 their regular rate, up to a max of \$25 per hour for a total of 10 weeks combined annual leave and E-FML (total of 400 hours, pro-rated by FTE and average hours worked). For detailed information on eligibility requirements and benefits, please visit hr.unm.edu/cv19/ffcra.

To request Emergency Paid Sick Leave and/or Emergency Family and Medical Leave, please visit hr.unm.edu/cv19/ffcra. If you have questions regarding your eligibility for paid leave as provided by FFCRA, contact HR Client Services at clientsv@unm.edu (Staff), the HSC Office of Faculty Contracts at HSC-HSCFO@salud.unm.edu (HSC Faculty), the SOM Faculty Affairs Office at som-facultyaffairs@salud.unm.edu (SOM Faculty), the Student Employment Office at stuemp@unm.edu (Students), or Graduate Studies at assistantships@unm.edu (Graduate Assistantships).

FFCRA Poster: As an employer, UNM is required by law to provide this information to employees. Typically, employment law posters must be posted in a conspicuous area; however, we are making this available electronically during UNM's pandemic response period. Managers who continue to report to work in Tier 1, must post this information in Tier 1 work areas.

¹ Employees meeting the DOL's definition of health care provider or emergency responder in HSC, UNMPD, SHAC, SRS, UNM Children's Campus and all other emergency management, public works and utilities employees, are excluded from coverage under the Emergency Family and Medical Leave Expansion Act.