FAQ Sheet Concerning Emergency Family Medical Leave Expansion Act Under FFCRA

Who is eligible to take EFMLA?
Employees are eligible to take leave under the EFMLA Act if they have been employed at least 30 calendar days. This includes employees in non-FTE and non-leave accruing positions. Unlike the other provisions of the FMLA, there are no hours worked requirements for eligibility, and employees are not required to work the normal 12-month period for leave taken pursuant to the EFMLA. If the employee worked as a temporary, time-limited or temporary grant employee and was then transitioned to an FTE position, the total time worked in both positions should be added to determine if the 30-day timeframe has been met.

Is EFMLA paid or unpaid?
The first 10 workdays of the 12 workweeks of leave provided under the EFMLA are unpaid, but in accordance with standard FMLA administration, employees may use any paid leave available concurrently with EFMLA leave during this 10-day period. After the first 10 workdays, paid leave must be provided for the remaining leave taken under the EFMLA. This includes leave taken by employees who do not currently earn leave including temporary, temporary grant and time-limited employees. The Emergency Family and Medical Leave Expansion Act requires you to pay an employee for hours the employee would have been normally scheduled to work even, if that is more than 40 hours in a week.

Is the leave paid at the employee’s regular rate of pay?
No. The paid leave provided to eligible employees shall be calculated at two-thirds of an employee’s regular rate of pay and should be based on the number of hours the employee would otherwise be normally scheduled to work. Paid leave under the EFMLA is capped at $200 per day and $10,000 in the aggregate. Employees can use any accrued leave to augment leave taken pursuant to the EFMLA up to their regular salary rate.

Can EFMLA be taken intermittently?
Yes, leave under the EFMLA can be taken on an intermittent basis.

Does EFMLA carry-over to next year?
No, leave may be used at any time from April 1, 2020 through December 31, 2020, but paid leave provided under the Act does not carry over from year to year.

What notice must be given by employees taking EFMLA?
In any case where the necessity for leave under the EFMLA is foreseeable, an employee shall provide the employer with as much notice as is practicable.

What medical certification or documentation can the District require?
The normal FMLA certification process is not required for leave taken under the EFMLA. Agencies may request documentation of the school or childcare provider’s closure but should be flexible in the documentation accepted. For example, a printout or screen shot from a school or provider’s website indicating closure related to COVID-19 may be accepted.

Do job restoration requirements apply to EFMLA leave?
Yes, the same FMLA restoration to position requirements apply to leave taken under the EFMLA.

Is Emergency Paid Sick Leave taken under FFCRA PSERS creditable?
No.