



Since there have been several updates in recent weeks, we want to provide you with current information. From the Paycheck Protection Program (PPP) loans, to schools starting virtual learning, to job offers/hiring during COVID-19, this FAQ provides guidance for numerous pressing issues you may be currently facing.

Additionally, the National Association of Professional Employer Organizations (NAPEO) published a 30-minute video featuring Seth Perretta & Malcolm Slee of Groom Law Group summarizing the PPP loan process, including loan forgiveness. Because the video file is too large to include via e-mail, you can view it by clicking [here](#).

You may also visit LBMC's [blog](#) to access further guidance and insights.

Q: I haven't applied for or been approved for the PPP Loan yet, am I no longer eligible to receive one?

A: On July 4, President Trump signed S. 4116 extending the deadline for applying for a loan under the PPP from June 30 to August 8, 2020.

Q: Most of my employees live in Nashville. I saw that Metro Nashville schools are returning students virtually. What are my employees' options if they don't have childcare?

A: Your employees may be eligible for Families First Coronavirus Response Act (FFCRA) leave. Below is from the Department of Labor's website regarding schools and childcare.

My child's school or place of care has moved to online instruction or to another model in which children are expected or required to complete assignments at home. Is it "closed"?

Yes. If the physical location where your child received instruction or care is now closed, the school or place of care is "closed" for purposes of paid sick leave and expanded family and medical leave. This is true even if some or all instruction is being provided online or whether, through another format such as "distance learning," your child is still expected or required to complete assignments.

Other counties (and states) may have different options for the upcoming school year. If you have questions about a specific school district, please contact your HR Business Partner for additional guidance.

Q: What documentation do employees need to provide in order to take the FFCRA leave?

A: The IRS and DOL indicate that documentation supporting an employee's request for leave must include an employee's signed statement with:

1. The employee's name;
2. The date(s) the employee is requesting leave;
3. A statement of the COVID-19 related reason for the leave and "written support" for such reason; **and**
4. A statement that the employee is unable to work or telework because of the COVID-19 qualifying reason.

For school and childcare closures, these additional documents are required:

1. Name/age of child (or children);
2. Name of the school/place of care; **and**
3. Representation that no other person will be providing care for the child during the period the employee will be on leave.

Please note IRS guidance indicates if a child is over 14 and needs care during daylight hours, the employee must provide a statement that special circumstances exist requiring the employee to provide care.

It is very important to be reasonable when working with the employees to gather the documentation for the leave. Also, if possible, work with the employee and allow telework or flexible work hours.

Q: What if I have a long-term employee who needs to care for his family member who is sick with COVID-19 or care for his child due to the school closures. Because I know his family and he is trustworthy, am I required to have him fill out the paperwork for the FFCRA leave?

A: It is imperative to be consistent with the required leave paperwork and maintain records for paid sick leave or expanded FMLA regardless if it is granted or denied. It serves not only as protection legally but also protection against the employee taking more time off than allowed by the Act. Appropriate documentation helps to confirm applicable wages are paid in compliance of FFCRA and available tax credits are applied correctly if audited by the IRS.

Furthermore, on July 8, 2020, the IRS released Notice 2020-54, which mandates 2020 W-2 reporting of qualified sick and family leave wages paid to employees under the FFCRA. These payments are taxable wages and will be reported in boxes 1, 3, and 5 of the 2020 Form W-2. The Notice provides that in addition, box 14 (which is typically an optional box) must disclose the amounts received by the employee as follows:

1. sick leave wages subject to the \$511 per day limit
2. sick leave wages subject to the \$200 per day limit
3. emergency family leave wages

Q: If an employee tests positive for COVID-19, what steps should be taken for re-entering them into the workplace?

A: Many factors should be considered before the employee re-enters the workplace. In most cases, employers can choose:

1. Symptom-based strategy: **Persons with COVID-19 who have symptoms** and were directed to care for themselves at home may discontinue isolation under the following conditions:
 - At least 24 hours have passed *since recovery* defined as resolution of fever without the use of fever-reducing medications **and** improvement in symptoms; **and**,
 - At least 10 days have passed *since symptoms first appeared*; **and**,
 - Other symptoms have improved.

2. Time-based strategy: **Persons with laboratory-confirmed COVID-19 who have not had any symptoms** and were directed to care for themselves at home may discontinue isolation under the following conditions:
 - At least 10 days have passed since the date of their first positive COVID-19 diagnostic test assuming they have not subsequently developed symptoms since their positive test. If they develop symptoms, then the symptom-based strategy should be used. Note, because symptoms cannot be used to gauge where these individuals are in the course of their illness, it is possible that the duration of viral shedding could be longer or shorter than 10 days after their first positive test.

[Here](#) is a link to the CDC website reflecting the above updates effective July 17, 2020.

Q: If I conduct an interview with a candidate virtually and decide to make an offer, can I require a test with negative results prior to the start date?

A: Yes. An employer may screen job applicants for symptoms of COVID-19 **after** making a conditional job offer as long as the employer does so for all entering employees in the same type of job. This ADA rule applies whether the applicant has a disability.

Q: The applicant, who I sent an offer of employment, tested positive for COVID-19. Do I have to delay the start date? What if I need him/her to start immediately?

A: Based on CDC guidance, the start date can be delayed for an individual who has COVID-19 or symptoms associated with it. In addition, if the employer has an immediate need to fill the position, the offer of employment may be withdrawn.