

**STATE OF OHIO
ADJUTANT GENERAL'S DEPARTMENT
2825 West Dublin Granville Road
Columbus, Ohio 43235-2789**

NGOH-HRZ

27 July 2020

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Clarification Regarding the Use of Families First Coronavirus Response Act (FFCRA) Paid Sick Leave While Absent for Uniformed Service

1. References.

- a. 29 CFR Part 826, Families First Coronavirus Response Act, Public Law 116–127.
- b. Defense Civilian Personnel Advisory Service (DCPAS) memorandum, “Interim Guidance on the Emergency Paid Sick Leave and Emergency Family and Medical Leave Expansion under the Families First Coronavirus Response Act,” dated 7 April 2020.
- c. Chief, National Guard Bureau Instruction, 1400.25 Vol 630, “National Guard Technician Absence and Leave Program,” Enclosure E, dated 6 August 2018.
- d. 5 CFR § 353.208 - Use of paid time off during uniformed service.
- e. Office of United States Office of Personnel Management memorandum, subject: Summary of Statutory and Regulatory Requirements in Connection with the Emergency Paid Sick Leave Act (EPSLA)—Application to Federal Employees, dated 22 April 2020.

2. Purpose. This memorandum provides clarification on the use of Families First Coronavirus Response Act (FFCRA) leave, while a federal employee is Absent for Uniformed Service (AUS). The Human Resources Office (HRO) will continue to publish any additional clarifying guidance, as such guidance becomes available.

3. Applicability. This policy applies to all Ohio National Guard (OHNG) Title 32 Technicians and T5 National Guard Employees, both full and part-time, hereafter referred to as “Employees.”

4. Background. The Families First Coronavirus Response Act (reference a) was signed into law, which expands the existing Family Medical Leave Act (FMLA), by providing employees with paid sick leave and expanded family and medical leave for reasons related to the coronavirus disease 2019 (COVID-19). The FFCRA, however, does not provide any additional length of coverage beyond the current 12 months of FMLA coverage. The FFCRA leave provisions are effective from 1 April 2020, through 31 December 2020.

5. Clarification. The use of FFCRA paid sick leave is not authorized, while an employee is AUS. FFCRA paid sick leave is not a source of accrued leave authorized IAW reference 1d. Employees do not accrue FFCRA paid sick leave, because this type of paid sick leave is only

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authorized for use under the provisions of law as promulgated in reference 1a: i.e., Employees do not accrue FFCRA paid leave in the same manner in which they accrue annual leave or sick leave, which is shown as accrued on the employee's leave and earning statement.

Furthermore, IAW reference 1e, FFCRA paid leave may only be used by employees who are actually scheduled to perform civilian work, during the period in which they request the use of FFCRA. Since employees are not scheduled to perform civilian work, while serving in the uniformed services, they are—therefore—not authorized to use FFCRA paid sick leave during periods of service in the uniformed services (i.e. in an AUS status).

6. Action Required.

a. Employees, supervisors, and timekeepers must ensure FFCRA paid sick leave is not authorized or otherwise used, while employees are AUS.

b. Employees, supervisors, and timekeepers must take any necessary actions required to correct timecards for any and all employees who previously and erroneously used FFCRA paid sick leave, while AUS.

7. The POC for this memorandum is MAJ Daryl Scott, Federal Employee Branch Manager, at 614-336-7121, or email at daryl.g.scott.mil@mail.mil.

FOR THE ADJUTANT GENERAL:

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