



# Employment Rights Helpline at Equip for Equality

SELF-ADVOCACY ASSISTANCE ★ LEGAL ADVICE ABOUT EMPLOYMENT RIGHTS ★ SAMPLE LETTERS & FORMS ★ REFERRALS

## FACT SHEET: COVID-19 in the Workplace

There are a number of laws that apply to workers in the wake of the COVID-19 outbreak in Illinois and across the country. This Fact Sheet is intended to provide general information with links to additional guidance.

- **Disclaimer:** The issues and laws related to COVID-19 in the workplace are rapidly evolving. This Fact Sheet provides our best interpretation of workplace rights as of the date of publication (4/22/2020). This Fact Sheet does not constitute legal advice. Please consult with a lawyer about your individual issues.

### Illinois Stay-at-Home Executive Order

The Illinois Stay-at-Home Executive Order says that employees cannot go to work, unless they work for an employer that is an **Essential Business or Operations**.

- If ***you are not feeling sick***, the relevant question is whether you work for an **Essential Business or Operations**.
  - If ***you do not work for an Essential Business or Operations***, the Executive Order says that you cannot go to work.
    - If you are being told that you have to go to work, explain to employer – “It is my understanding that the Executive Order says I cannot go to work. I do not want to get in trouble. Can we work out a solution?”
  - If you are ***not sure if you work for an Essential Business or Operations***, review the [Executive Order](#) or the [Stay at Home Frequently Asked Questions](#). You can also contact the Department of Commerce and Economic Opportunity COVID-19 hotline at 800-252-2923 or [CEO.support@illinois.gov](mailto:CEO.support@illinois.gov)
  - If ***you do work for an Essential Business or Operations***, the Executive Order doesn't help you. Consider other options below.
- If ***you are feeling sick***, the Executive Order says that you should contact your doctor, a nurse hotline, any telehealth hotline set up for COVID-19 or an urgent care center. If you are experiencing symptoms and are currently in isolation, you should stay at home and follow the guidelines provided by your physician.

## Families First Coronavirus Response Act (FFCRA)

The **Families First Coronavirus Response Act** requires certain employers to provide expanded family and medical leave for reasons related to COVID-19 *and* paid sick leave in certain instances. Your rights differ based on the reason you need leave and the type of employer you work for.

- **Expanded Family Medical Leave Act (FMLA)**

- If you are unable to work or telework because you are ***caring for a child*** whose school is closed or whose childcare provider is unavailable for reasons related to COVID-19:
  - **Leave:** Full-time employees may take up to 12 weeks of job-protected leave; part-time employees may take the number of hours of work they are normally scheduled to work over a 12-week period.
    - **Pay:** First 10 days = Unpaid. Remainder of leave = Paid at 2/3 pay.
    - **Note:** You may choose to use paid sick leave (below) for the first two weeks.
  - **Covered employers:** Certain public employers and private employers with fewer than 500 employees. Employers with fewer than 50 employees may qualify for exemptions. Employees must have worked for the last 30 calendar days.

- **Emergency Paid Sick Leave**

- If you are unable to work or telework and need leave because you (1) are ***subject to a government quarantine or isolation***; (2) have been ***advised by a health care provider to self-quarantine***; (3) are ***experiencing COVID-19 symptoms*** and are seeking a medical diagnosis; (4) are ***caring for an individual*** subject to quarantine/isolation; (5) are ***caring for a child*** whose school or place of care is closed; or (6) are experiencing any other ***substantially-similar condition*** specified by the Secretary of Health and Human Services:
  - **Leave:** Full-time employees may take 80 hours of leave; part-time employees are eligible for the number of hours of leave that they work on average over a 2-week period.
    - **Pay:** Leave is paid at either full-rate or 2/3 depending on the reason. Learn how to [calculate paid leave](#) (questions 7-8).
  - **Covered employers:** Public employers and private employers with fewer than 500 employees. Employers with fewer than 50 employees may qualify for exemptions.
  - **Government quarantine or isolation:** This phrase includes a broad range of government orders, including shelter-in-place and stay-at-home.

- For the Emergency Paid Leave and Expanded FMLA, a **child** includes a child under the age of 18, as well as a child age 18 or older who is incapable of self-care due to a physical or mental disability.
- Learn more from the **Department of Labor**
  - [FFCRA Questions and Answers](#)
  - [Employee Paid Leave Rights](#)
  - FFCRA Poster for [Private Employees](#) and for [Federal Employees](#)
  - [FFCRA Regulations](#)
  - [FFCRA Webinar](#)

### **Americans with Disabilities Act (ADA)**

The **Americans with Disabilities Act (ADA)** is the federal anti-discrimination law that protects the rights of employees with disabilities.

The **ADA** requires employers to provide **reasonable accommodations** to employees with known disabilities, unless the accommodation would pose an undue hardship.

- The ADA's accommodation requirements apply to:
  - People who have preexisting disabilities that require them to self-isolate to avoid getting COVID-19.
  - People who get COVID-19, so long as the impact causes a substantial limitation in a major life activity, including individuals with COVID-19-related complications. (Many people who get COVID-19 have only minor symptoms; those individuals will likely not be protected by the ADA.)
- Accommodations *may* include: Temporary leave (not indefinite leave); [Telework](#) (for certain positions); [Modifying your job duties](#) (removing non-essential job tasks) so you only need to perform tasks that are possible to be performed off-site or that can be performed while social distancing; Provision of personal protective equipment.
  - **Caution:** Given the various difficulties many employers are also facing during this time, including the number of individuals seeking leave or other accommodations, they *may* be able to show that a request would be an undue hardship. As a result, it is very important to be as flexible as reasonably possible when exploring options.
- **Note:** Employers only need to provide accommodations if there is a link between your disability and your need for an accommodation.
- Learn more about reasonable accommodations, including how to make a request, with our [Reasonable Accommodation Fact Sheet](#).

The **ADA** also places restrictions on the types of **medical inquiries and exams** employers can impose on you, including questions that can be asked when you return to work. These rules are

explained in detail in the resources below from the Equal Employment Opportunity Commission (EEOC).

- Learn more from the **Job Accommodation Network (JAN)**:
  - [Accommodation and Compliance: COVID-19](#)
- Learn more from the **Equal Employment Opportunity Commission (EEOC)**:
  - [EEOC Pandemic Preparedness in the Workplace and the ADA](#) (updated in response to COVID-19 Pandemic)
  - [What You Should Know About the ADA, the Rehabilitation Act, and COVID-19](#)
  - [COVID-19: Ask the EEOC Webinar](#)
  - [EEOC Website with all COVID-19 Resources](#)

### Family Medical Leave Act (FMLA)

The **Family Medical Leave Act (FMLA)** provides [qualifying employees who work for covered employers](#) with up to 12 weeks of job-protected leave if they are incapacitated by a serious health condition.

- According to the Department of Labor, this can include COVID-19.
  - **Caution:** The FMLA does not require employers to provide FMLA “for the purpose of avoiding exposure to COVID-19.”
- Learn more from the Department of Labor:
  - [COVID-19 and the Family and Medical Leave Act Questions and Answers](#)

### Unemployment Benefits

Unemployment benefits may be available if your unemployment is related to COVID-19.

- **Illinois:** Illinois adopted emergency rules to help workers during this time.
  - If you need unemployment because your employer has closed, ***you don't need to register with the employment service***. You are considered to be actively seeking work if you are prepared to return to work when your employer reopens.
  - Illinois has ***waived the one-week waiting period*** for unemployment insurance claims. This will continue for the duration of the Governor's Disaster Proclamation related to COVID-19. [3/16/2020 Executive Order, No. 5](#).
- **Q&A from the Illinois Department of Employment Security:**
  - **Question:** What if I'm confined to my home 1) because a licensed physician has diagnosed me as having COVID-19; 2) because I must stay home to care for my spouse, parent or child, whom a medical professional has diagnosed as having COVID-19; or 3) because of a government-imposed or government-recommended quarantine?

- **Answer:** An individual in any of those situations would be considered to be unemployed through no fault of his or her own. However, to qualify for unemployment insurance, he or she would still need to meet all other eligibility requirements, including the requirements that the individual be able and available for work, registered with the state employment service and actively seeking work from the confines of his or her home. The individual would be considered able and available for work if there was some work that he or she could perform from home (e.g., transcribing, data entry, virtual assistant services) and there is a labor market for that work.
- **Caution:** An individual who leaves work voluntarily, due to concern over the virus, without a good reason attributable to the employer is generally disqualified from receiving unemployment insurance.
- Learn more from **Legal Aid Chicago:**
  - [Webpage of all Legal Aid Chicago COVID-19 Resources](#)
- Learn more from the **Illinois Department of Employment Security:**
  - [COVID-19 and Unemployment Benefits](#)
  - [COVID-19 FAQ for Claimants](#)
  - [IDES Unemployment Handbook](#)
- **Federal CARES Act:** The Federal CARES Act provides temporary supplemental unemployment benefits and also extends the amount of time you can get benefits.
  - Highlights:
    - Claimants will receive an additional \$600/week (only until July 31, 2020)
    - Claimants will receive an additional 13 weeks of benefits (after they exhaust regular state benefits)
    - Expands protections to people often ineligible for state unemployment, including workers who are self-employed, freelancers, independent contractors and those who do not have a long-enough work history
  - Learn more about the CARES Act
    - [Fact Sheet from the National Employment Law Project](#)
    - [Information from the U.S. Department of Labor](#)

### **Additional Possible Protections**

You may also have rights under other laws.

- **Chicago / Cook County Sick Leave Ordinance**

- [Legal Aid Chicago Fact Sheet](#)
- [City of Chicago Fact Sheet](#)
- **Occupational Safety and Health Administration (OSHA)**
  - [COVID-19: Overview](#)
  - [COVID-19: Control and Prevention](#)
- **Fair Labor Standards Act:**
  - [Fair Labor Standards Act: COVID-19 Questions and Answers](#)
- **National Labor Relations Act**
- **Workers' Compensation Act**

For additional information about these laws, you should consult with a [general employment attorney](#).



### **DO YOU HAVE A QUESTION?**

#### **CONTACT THE HELPLINE FOR FREE LEGAL ADVICE**

Contact Equip for Equality's Employment Rights Helpline

**1-844-RIGHTS-9** (1-844-744-4879) (toll free - voice)

800-610-2779 (tty)

[employment@equipforequality.org](mailto:employment@equipforequality.org)

[www.equipforequality.org/employment](http://www.equipforequality.org/employment)

This resource material is intended as a guide for people with disabilities. Nothing written here shall be understood to be legal advice. For specific legal advice, an attorney should be consulted.

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