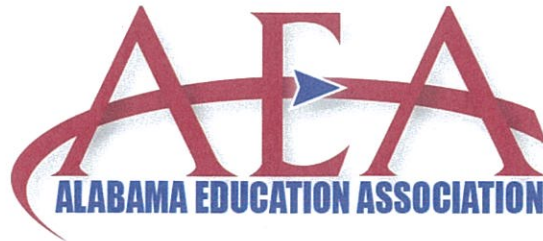


Dr. Susan Williams Brown  
*President*

Dr. Bridgette Massey Johnson  
*Vice President*

Dr. Victoria K. Reese  
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Theron Stokes, Esq.  
*Associate Executive Director*

August 11, 2021

Dr. Eric Mackey  
State Superintendent of Education  
P.O. Box 302101  
Montgomery, AL 36104

Dear Dr. Mackey:

I am writing you today regarding the availability of Families First Coronavirus Response Act (FFCRA) leave for public education employees. As we have discussed and as referenced by the AASB in their April COVID-19 update, FFCRA was extended and has not yet expired. A copy of the relevant portion of this update is enclosed. On April 1, 2021, the American Rescue Plan provided employers the option to extend FFCRA leave through September 30, 2021. Employers choosing to extend FFCRA leave would be bound by all of the changes to the FFCRA. The three changes relevant to public education employees are as follows: 1) The American Rescue Plan reset employees' FFCRA sick leave rights on April 1, 2021. Therefore, if an employee had previously exhausted their 10-day/80-hour limit of Paid Sick Leave under the FFCRA, as of April 1, the employee now has an additional 10-day/80-hours for use; 2) The American Rescue Plan allows for 12 full weeks of FMLA to be paid if a qualifying reason exists; and 3) An employee can now take FMLA for any of the reasons an employee would have qualified for Emergency Paid Sick Leave in 2020.

Any school system that voted to extend FFCRA leave beyond the initial March 31, 2021 expiration can provide FFCRA leave to their employees. Furthermore, any school systems who did not extend FFCRA leave may now choose to do so through September 30, 2021. Therefore, FFCRA leave has not expired and is available through the end of September if school systems choose to implement it.

Should you have any questions or concerns, please do not hesitate to contact my office. I look forward to hearing from you.

Sincerely,



Theron Stokes  
Associate Executive Director

Enclosure

cc: J. Jason Swann, State Department of Education General Counsel  
Dr. Susan Williams Brown, AEA President  
Amy Marlowe, AEA Executive Director

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## ▶ COVID-19 Leave (FFCRA Extension)

Last month, President Biden signed the American Rescue Plan Act of 2021 (“ARPA”) which will provide stimulus payments to millions of Americans, billions of dollars to state and local governments as well as K-12 schools, and other benefits. One lesser known feature of the Act is a second extension of the COVID leave originally provided by the Families First Coronavirus Response Act. FFCRA leave originally expired at the end of 2020 but employers had the option to extend the leave until March 31, 2021. The new law gives employers a second opportunity to extend FFCRA leave until September 30, 2021.

Employers still have the option to extend the leave or not, but this extension is different from the last one. Unlike the last extension, employees will enjoy a new round of leave. Therefore, if an employee exhausted the full 10 days of Emergency Paid Sick Leave (“EPSL”) in 2020, employees will now have access to another 10 days of EPSL.

Another key difference is that there are now additional reasons employees can take EPSL. In addition to last year’s reasons which included experiencing COVID symptoms, caring for someone with COVID and quarantining, the ARPA provides the following additional reasons to take EPSL:

- Getting the COVID vaccine;
- Recovering from COVID vaccine side effects; and
- Awaiting COVID test results following a close contact or at the employer’s direction.

Each of these new reasons are paid at 100% of the employer’s salary up to \$511/day for a maximum of 10 days.

Additionally, there are changes to the Expanded FMLA (“EXFMLA”) leave provisions. Initially, employees could take up to 12 weeks of EXFMLA at 67% pay if their child’s daycare or school closed due to COVID, but the first 2 weeks

