

# M E M O R A N D U M

TO: Oklahoma Fraternal Order of Police Lodges  
FROM: Sweet Law Firm  
DATE: April 3, 2020  
RE: FFCRA Emergency Sick Pay Considerations Related to CBA Negotiations

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The COVID-19 pandemic has forced the United States Government to take drastic legislative action to protect Americans, the economy, and our workforce. One of these measures, the Families First Coronavirus Response Act (FFCRA), requires many private and public employers to provide their employees with emergency sick leave pay when employees are forced to miss work due to COVID-19 related reasons.

An employee is entitled to take leave related to COVID-19 if the employee is unable to work because the employee:

1. is subject to State, Federal, or local quarantine,
2. has been advised by a medical professional to self-quarantine,
3. is experiencing COVID-19 symptoms and is seeking medical diagnosis,
4. is caring for an individual under quarantine,
5. is caring for a child whose school or place of care has closed due to COVID-19 related reasons, or
6. is experiencing any other substantially similar condition specified by the U.S. Government.

However, the FFCRA allows employers of emergency responders to opt out of the emergency sick leave pay requirements. The U.S. Department of Labor has designated law enforcement officers as ‘emergency responders.’ Therefore, municipalities across the state could opt out of the FFCRA emergency sick leave pay requirements for law enforcement officers. This would subject law enforcement officers who fall into one of the above-mentioned categories to undue hardship and burden. With that in mind, here are some factors to consider when negotiating your Lodge’s next Collective Bargaining Agreement, if the employer opts of the emergency sick leave payments for emergency responders:

- An officer who contracts COVID-19 will likely be considered to have done so in the line of duty and may make a Workers’ Comp claim related to the illness.
- Officers who are required to miss work related to COVID-19, but who are not diagnosed with the illness, do not likely have a valid Workers’ Comp Claim.
- Lodges should consider bargaining for added protections in their upcoming CBA negotiations to protect officers who must miss work due to COVID-19 related reasons.
- Officers who must miss work due to COVID-19 related reasons, but who are not diagnosed with COVID-19 (i.e. those who must care for children out of school, those

who must care for family members under quarantine, etc.), are at the greatest risk of suffering undue burdens, because they cannot likely make Workers' Comp Claims—they have no diagnosed illness.

- Lodges should negotiate to prevent municipalities from opting out of the FFRCA's emergency sick leave policy for law enforcement officers.
- At a minimum, Lodge's should negotiate to protect those who cannot make Workers' Comp claims.

For assistance in drafting subsections of Collective Bargaining Agreements related to COVID-19 protections, please contact the Sweet Law Firm at (405) 601-9400.