

COVID-19 Alert: FFCRA Leave Eligibility

DOL Updates FAQs on FFCRA Leave as a New School Year Approaches

August 28, 2020



This week the U.S. Department of Labor (DOL) updated its [Frequently Asked Questions](#) (See Questions #98-100) on leave eligibility under the Families First Coronavirus Response Act (FFCRA), in anticipation of a significant shift to remote school programs across the U.S. As a new school year approaches, employers should familiarize themselves with this new development as they begin to field new requests for FFCRA leave from their employees.

The DOL addressed how the FFCRA applies to several school program scenarios including fully remote programs, hybrid arrangements, and what happens if a parent *chooses* a remote option over in-person schooling.

The DOL clarified that if a school does not permit the child to attend school in-person and is instead only permitting remote learning, the school is effectively “closed” for purposes of the FFCRA, and the parent may take leave to care for the child. Likewise, if a school is operating on a hybrid basis with *some* days in-person and other days remote, the FFCRA leave would apply to those remote days where the child is not permitted in school. This would effectively allow an employee to be eligible for FFCRA leave on an intermittent basis.

If a school is offering in-person attendance (either fully in-person or on a hybrid basis), but a parent *elects* to keep the child home and engage in remote learning, the parent would not qualify for FFCRA leave. The DOL reasons that because the school is open for in-person learning, it would not be covered under the regulations. If, however, the child is home on a remote basis because of another COVID-19-related reason, such as a quarantine order from a health professional, then the parent may be eligible for FFCRA leave.

It is important to note that when evaluating such leave requests, the employee must still supply certain information, including the child’s name (who is under the age of 14), the name of the school that is closed, and that there is no other suitable person available to care for the child. It is unlikely, then, that both parents of a child engaged in remote learning would qualify for FFCRA leave. And, of course, employers should continue to keep such written documentation in order to take advantage of the available [tax credit](#).

See our complete [COVID-19 Resource Collection](#) for additional information, or contact a member of the Morse [Employment Team](#).