

Just in Time! DOL Answers School Leave Questions

Late yesterday, the Department of Labor (DOL) once again updated its frequently asked questions concerning leave under the Families First Coronavirus Response Act (FFCRA). This time, the updates answer the burning questions that parents (and their employers) have concerning hybrid school attendance, remote learning, and an employee's eligibility to take paid leave under the FFCRA. Here is a summary of the new (and timely) guidance:

If an employee has a child who attends a school that is operating on an alternate-day basis (or hybrid attendance), can the employee still take paid leave under the FFCRA?

Yes. Even if the school is open each day, but students are required to alternate between days of in-person attendance and days of remote learning, the employee may still take paid leave under the FFCRA. That is, the employee is eligible to take paid leave under the FFCRA on the days that his or her child is not permitted to attend school in person and they must instead engage in remote learning, as long as the leave needed is to actually care for the child and there is no other suitable person available to provide care.

For purposes of the FFCRA and its implementing regulations, the school is effectively "closed" to children on the days he or she cannot attend in person. This allows employees to take paid leave under the FFCRA on each of his or her child's remote-learning days, assuming of course that the other eligibility requirements are met (e.g., [the employee is unable to telework on the remote-learning days](#)).

If an employee is given the choice by their child's school to either have the child attend in-person class or participate in a remote learning program during the fall semester and the employee chooses remote learning, may the employee take paid leave under the FFCRA?

No. An employee is not eligible for paid leave under the FFCRA under these circumstances because the child's school is not "closed" due to COVID-19 related reasons. The school is still open for the child to attend, but the employee chose to instead participate in the remote-learning option. The FFCRA is not available to employees so they can take care of their child whose school is still open for in-person attendance.

But, if an employee's child is under a quarantine order or has been advised by a health care provider to self-isolate or self-quarantine because of COVID-19, then the employee may be eligible to take paid leave to care for the child. An employee is eligible for paid sick leave to care for an individual who, as a result of being subject to a quarantine or isolation order, is unable to care for him or herself and depends on the employee for care and providing care prevents the employee from working and from teleworking. This obviously applies only if the employee has not already [exhausted their allotment of paid sick leave](#).

If a school year begins under a remote-learning program out of concerns for COVID-19 but has announced it will continue to evaluate local circumstances and make a decision about reopening for in-person attendance later in the school year, may an employee still take paid leave under the FFCRA?

Yes. An employee is eligible to take paid leave under the FFCRA while his or her child's school remains closed. If the child's school reopens, the availability under the FFCRA will depend on the particulars of the school's operations.

This guidance will hopefully provide employers and parents with much-needed answers to questions concerning leave eligibility as schools reopen (or don't).

Our Chambliss team continues to monitor legal developments in connection with the COVID-19 pandemic. Please contact [Jim Catanzaro](#), [Justin Furrow](#), or your relationship attorney if you have questions or need additional information.

Visit our COVID-19 Insight Center for our latest legislative and legal updates, articles, and resources.

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