

Legislative Update

AUGUST 2020*

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U.S. DEPARTMENT OF LABOR ADDS 3 NEW FAQs TO F.F.C.R.A. PAID LEAVE FAQs

FAQ 98: My child's school is operating on an alternate day (or other hybrid-attendance) basis. The school is open each day, but students alternate between days attending school in person and days participating in remote learning. They are permitted to attend school only on their allotted in-person attendance days. May I take paid leave under the Families First Coronavirus Response Act (FFCRA) in these circumstances? *Yes, you are eligible to take paid leave under the FFCRA on days when your child is not permitted to attend school in person and must instead engage in remote learning, as long as you need the leave to actually care for your child during that time and only if no other suitable person is available to do so. For purposes of the FFCRA and its implementing regulations, the school is effectively "closed" to your child on days that he or she cannot attend in person. You may take paid leave under the FFCRA on each of your child's remote-learning days.*

99: My child's school is giving me a choice between having my child attend in person or participate in a remote learning program for the fall. I signed up for the remote learning alternative because, for example, I worry that my child might contract COVID-19 and bring it home to the family. Since my child will be at home, may I take paid leave under the FFCRA in these circumstances? *No, you are not eligible to take paid leave under the FFCRA because your child's school is not "closed" due to COVID-19 related reasons; it is open for your child to attend. FFCRA leave is not available to take care of a child whose school is open for in-person attendance. If your child is home not because his or her school is closed, but because you have chosen for the child to remain home, you are not entitled to FFCRA paid leave. However, if, because of COVID-19, your child is under a quarantine order or has been advised by a health care provider to self-isolate or self-quarantine, you may be eligible to take paid leave to care for him or her. See FAQ 63. Also, as explained more fully in FAQ 98, if your child's school is operating on an alternate day (or other hybrid-attendance) basis, you may be eligible to take paid leave under the FFCRA on each of your child's remote-learning days because the school is effectively "closed" to your child on those days.*

100: My child's school is starting the school year under a remote learning program out of concern 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 I take paid leave under the FFCRA in these circumstances? *Yes, you are eligible to take paid leave under the FFCRA while your child's school remains closed. If your child's school reopens, the availability of FFCRA paid leave will depend on the particulars of the school's operations. See FAQ 98 and FAQ 99.*

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