



School Law FYI

DECEMBER 30, 2020

Latest Stimulus Does Not Extend The FFCRA Leave Mandate

The Consolidated Appropriations Act of 2021 (Act) was signed into law by President Trump on Sunday, December 27, 2020. While the Act made changes to the Families First Coronavirus Relief Act (FFCRA), it does not extend the mandatory leave portion of the FFCRA. Therefore, as of January 1, 2021, employers will no longer be required to provide the mandatory Emergency Paid Sick Leave (EPSL) or Emergency paid FMLA leave (EFMLA) under the FFCRA.

However, employers may **voluntarily** allow employees to take any remaining FFCRA leave through March 31, 2021 and continue to receive the applicable tax credits for such leave. Those credits are provided to many private sector employers who offer EPSL or EFMLA paid leave. Congress did **not** add public employers to the list of employers who could receive those credits. Public employers (including school districts) were previously eligible for FICA credits only, but that provision was not extended.

The Act does NOT provide additional amounts of paid leave beyond the current per employee caps of 80 hours for EPSL, and 12 weeks of EFMLA coverage (which counts towards the cap of 12 weeks of regular FMLA coverage in a year), under the FFCRA, and if employees have already exhausted all FFCRA paid leave, employers are not mandated to provide additional leave.

We know many districts have taken steps, or were considering steps, to provide some form of additional leave in 2021 in anticipation of the FFCRA not being extended. You may wish to review your plans in light of this recent development.

We will continue to monitor any legislative changes concerning the FFCRA and keep you informed of any significant developments, and are available to discuss any questions you might have.

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