

School Districts Should Know the DOL has Released Additional FFCRA Guidance Clarifying Common Areas of Concern (Part 1)

On the evening of Thursday, March 26, the Department of Labor (DOL) added to its existing FAQs on the Families First Coronavirus Response Act (FFCRA) addressing several outstanding questions regarding the leaves under the FFCRA that will take effect on April 1, 2020.

As we have previously advised, the DOL's guidance on the FFCRA is continually evolving, and new DOL guidance continues to be published without advanced notice. Our first article on the DOL's FAQs can be [found here](#).

The DOL's FAQs are [available here](#).

In the newest additions to the FAQs beginning with question #15, the DOL provides some guidance to employers on the following topics:

- Employee and employer documentation.
- The employer's ability to determine whether employees are permitted to work remotely.
- The employer's ability to decide if and when FFCRA leave may be taken intermittently by employees.
- Neither the "Safer at Home" order nor the state's school closure order qualify as a state quarantine or isolation order that would trigger eligibility for FFCRA leave.
- An employee's potential eligibility for unemployment benefits while taking FFCRA leave.
- The continuation of healthcare coverage during FFCRA leave.
- The FFCRA's interaction with an employer's existing paid leave benefits.
- Employees are not entitled to FFCRA benefits if they are terminated, temporarily laid off, furloughed, or have their hours reduced, either before or after April 1, 2020 (although an employer cannot retaliate against an employee for taking FFCRA leave, nor can an employer interfere with an employee's right to take FFCRA leave).

In Part 2 of this article, the Boardman Clark School Law Practice Group will provide further analysis and insights on what the DOL's FAQs mean for employers.

School districts seeking to use the DOL's latest FAQs to guide their FFCRA implementation efforts should consult with legal counsel first to ensure they have the latest and most accurate information from the DOL as the FFCRA's legal landscape continues to develop.

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