

Electronic Alert

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New Answers From Department of Labor for FFCRA Leave in Upcoming School Year

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Adding to the long list of Frequently Asked Questions published to help us understand FFCRA, last week the DOL added three more, which are specific to eligibility for leave due to school closures. With K-12 schools in Oregon opening this fall with some combination of remote and in-person learning, these FAQs provide the guideposts for employers fielding leave requests from parents.

- When an employee's child is not permitted by the school to attend in-person and must instead engage in remote learning, the child's school is considered "closed" for the periods of the child's remote learning, even if the school is otherwise "open" for other students to attend in-person.
- When a school is operating on a hybrid schedule, employees who otherwise qualify for FFCRA leave may take paid leave under FFCRA during the periods of their child's remote-learning days, but not when their child is permitted to attend school in-person.
- If a school has given parents the choice to have their child attend in-person or remotely, parents who choose the remote option will not qualify for expanded FMLA leave under FFCRA because the in-person option is available. However, the parent may still be eligible for emergency paid sick leave under FFCRA if the child must quarantine based on the advice of a health care provider or pursuant to a government quarantine order.
- If a school is closed or conducting entirely remote learning at the start of the fall, with the plan to open for in-person later in the school year, parents are eligible for FFCRA now, but may lose eligibility depending on the circumstance of reopening.

You can find the new FAQs (#98-100) [here](#).

BOLI issued a temporary rule to allow parents to take OFLA "sick child leave" as protected time off to care for children whose school or place of care is closed by order of a public official during the pandemic. The rule is effective through September 13, 2020, but may be extended. The new DOL FAQs regarding eligibility for leave when a school is requiring remote learning are a good indication of how BOLI will apply the extended OFLA sick child leave.

For more information about FFCRA and eligibility for leave due to school closures, please contact Charlotte Hodde at 503-276-2102 or chodde@barran.com.