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## Additional COVID-19 FAQs from the DOL About School Reopenings

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The Department of Labor (“DOL”) has issued additional Frequently Asked Questions (“FAQs”) on the administration of Emergency Paid Sick Leave under the Families First Coronavirus Response Act (“FFCRA”) and issues related to school reopenings.

The first new FAQ asks if employees may take paid leave if their child’s school is operating on an alternate day (or other hybrid-attendance) basis where the school is open each day, but students alternate between days attending school in person and days participating in remote learning. In such situations, students are only permitted to attend school on their allotted in-person attendance days.

In this case, DOL says the employee is eligible to take paid leave under the FFCRA on days when the child is not permitted to attend school in person and must instead engage in remote learning, as long as the employee needs the leave to actually care for the child during that time, and only if no other suitable person is available to do so. For purposes of the FFCRA, the school is effectively “closed” to the child on days when he or she cannot attend in person, and the employee may take paid leave under the FFCRA on each of the child’s remote-learning days.

If the school provides the employee with a choice between having the child attend in person or participate in a remote learning program and the employee elects the remote learning alternative, the employee is not eligible to take paid leave under the FFCRA because the school is not “closed” due to COVID-19 related reasons and is open for the child to attend. FFCRA paid leave is not available to take care of a child whose school is open for in-person attendance, even if the child is kept home due to the employee’s fear that the child may contract COVID-19, as the child is at home because the employee has chosen that the child remain home.

Finally, an employee is eligible to take paid leave under the FFCRA if the child’s school is beginning 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 revisit the possibility of reopening for in-person attendance later in the school year. In this situation, the employee's eligibility to take paid leave under the FFRCA may end if the school later decides to reopen.

The FAQs are available at: <https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

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**Boston:**

99 Summer Street, 13th Floor  
Boston, MA 02110  
Tel: (617) 357-5200

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**Boynton Beach:**

1880 N. Congress Avenue, Suite 200  
Boynton Beach, FL 33426  
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**Chicago:**

180 N. LaSalle Street, Suite 3200  
Chicago, IL 60601  
Tel: (847) 990-9034

**Lincoln, MA:**

55 Old Bedford Road, Suite 303  
Lincoln, MA 01773  
Tel: (617) 532-8080

**New York:**

200 Park Avenue, Suite 1700  
New York, NY 10166  
Tel: (212) 338-5159

**San Diego:**

8677 Villa La Jolla Drive, Suite 888  
San Diego, CA 92037  
Tel: (619) 232-8702

**San Francisco:**

315 Montgomery Street, Suite 900  
San Francisco, CA 94104  
Tel: (415) 625-0002

**St. Louis:**

1099 Milwaukee Street, Suite 140  
St. Louis, MO 63122  
Tel: (314) 236-0065

**Tampa:**

101 East Kennedy Boulevard, Suite 2140  
Tampa, FL 33602  
Tel: (813) 603-2959

**Washington, D.C.:**

800 Connecticut Avenue, N.W., Suite 810  
Washington, D.C. 20006  
Tel: (202) 969-2800

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