

**MPCC Roundtable
September 1, 2020 TPO Update**



*These updates are a small sample of important topics and information we provide and discuss with our members in helping manage to FFCRA and everything HR. For questions about this week's topic or information about TPO Membership and the products and services we provide, please contact Michaelle Stanford, PHR-ca, M.A. at michaelles@tpohr.com. **TPO Note:** As a reminder, these updates are for informational purposes only. For unique situations to your business, consult with your Human Resource provider or employment expert.*

At TPO, we continue to monitor the many different federal, state and local resources. For this MPCC Business Roundtable update, the focus is on recent updates from the Department of Labor (DOL) and the CDC.

New Updates from the Department of Labor (DOL) FAQ's – Emphasis on EFMLA

<https://www.dol.gov/agencies/whd/pandemic/ffcr-questions>

1. **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 FFCRA in these circumstances?** (added 08/27/2020)

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.

2. **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?** (added 08/27/2020)

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.

3. **My 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 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? (added 08/27/2020)

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 paid leave under the FFCRA will depend on the particulars of the school's operations. See [FAQ 98](#) and [99](#).

CDC Update: When Testing is Required

<https://www.cdc.gov/coronavirus/2019-ncov/if-you-are-sick/end-home-isolation.html>

CDC now states that anyone who has been in close contact with a person with COVID-19 is not advised to get tested. This has changed from their earlier guidance.

For Anyone Who Has Been Around a Person with COVID-19

*Anyone who has had close contact with someone with COVID-19 should stay home for 14 days **after their last exposure** to that person.*

However, anyone who has had close contact with someone with COVID-19 and who:

- *developed COVID-19 illness within the previous 3 months **and***
- *has recovered **and***
- *remains without COVID-19 symptoms (for example, cough, shortness of breath)*

***does not** need to stay home.*

Pending Bills on the Horizon

Presumption of Worker's Comp. (AB 196) – If passed, this bill would establish a “Conclusive Presumption” of Injury that contraction of COVID-19 by all “essential workers” is a workplace injury.

TPO Tip: Contact your Workers' Compensation Carrier if an employee has a positive COVID-19 test so that you get the most current information from your specific carrier.

Rehiring Laid-Off Employees (AB 3216) – If passed, this bill would require certain California travel- and hospitality-related employers (hotels, event centers, airport hospitality operations, janitorial services, building maintenance or security services) to offer its laid-off employees specified information about job positions that become available for which the laid-off employees are qualified, and to offer positions to those laid-off employees based on a preference system in order of seniority. This would apply to any employee who was employed by the employer for 6 months or more in the 12 months preceding the state of emergency giving rise to the application of this section, and whose most recent separation from active service was due to a public health directive, government shutdown order, lack of business, a reduction in force or other, economic, non-disciplinary reason related to the state of emergency.