

LEGAL UPDATE

DOL Clarifies FMLA Use During Snow Days and Similar Closures



The Wage and Hour Division of the U.S. Department of Labor (DOL) has issued [Opinion Letter FMLA2026-1](#), addressing the use of leave under the federal Family and Medical Leave Act (FMLA) when an employer is closed for part of a week. Under the DOL's interpretation, leave during the closure is counted against the employee's FMLA leave if:

- The employee took the entire week as FMLA leave; or
- The employee was scheduled and expected to work during the period and used FMLA leave for that time.

The letter responded to a school employer's question of how to count FMLA leave used during weather-related school closures.

Statutory and Regulatory Background

The starting point for the DOL's opinion is the FMLA [statutory prohibition](#) against reducing employees' FMLA leave beyond the amount of leave actually taken. The DOL analysis likewise relies on the principle articulated in the FMLA [regulations](#) that holidays during a week when an employee is taking FMLA leave in increments of less than a full workweek (intermittent or reduced-schedule leave) do not count against the employee's FMLA leave entitlement, unless the employee was scheduled and expected to work on the holiday and uses FMLA leave for that day.

In contrast, the letter notes that when an employee takes a full workweek of leave, holidays during that week (along with the rest of the week) count as FMLA leave under the regulations.

Opinion

Applying the above statutory and regulatory provisions, the letter concludes that when an employee is approved to take FMLA leave for less than a full workweek, and the school closes for less than a week, during which the employee would not be expected to report to work, leave during the closure is not FMLA leave. The letter offers the example of an employee who needs FMLA leave each Tuesday afternoon for physical therapy. When the school is closed all day on Tuesday due to inclement weather and the employee is not required to report for duty, the employer should not deduct time for that day from the employee's FMLA entitlement.

However, the answer changes when an employee is using FMLA leave for a full workweek. The letter says that in this case, if the school closes for less than a week, the employer may deduct a full week of leave from the employee's FMLA entitlement.

The letter also states that whether the closure was planned and the reasons for the closure do not affect the analysis, nor does the requirement of future "make-up" days.

Employer Takeaways

DOL opinion letters do not have the force of regulations, laws or court rulings and apply only to the specific situation submitted. However, the letters are useful to employers as an indication of the DOL's interpretation of the laws and regulations it enforces.