



## FFCRA Family Leave Fact Sheet: Back to School Edition

In August, the Department of Labor (DOL) released guidance clarifying when an employee may take family leave under the Families First Coronavirus Response Act (FFCRA). The guidance addresses issues related to the reopening of schools and the varying approaches school districts have taken with the use of remote learning and staggered classes. This fact sheet summarizes what you need to know.

**Generally, the FFCRA requires all employers with fewer than 500 employees to provide to all employees two weeks (up to 80 hours) of paid sick leave at two-thirds the employee's regular rate of pay because of a bona fide need to care for an individual subject to quarantine or care for a child (under 18 years of age) whose school or child care provider is closed or unavailable for reasons related to COVID-19.**

A school is considered closed or unavailable if:

- The school is operating on an alternate day or other hybrid-attendance basis. In this case the employee may take FFCRA leave on the days when the child is not permitted to attend school in-person, as long as the employee is actually needed to care for the child and no other suitable person is available to do so.
- The school is operating under a remote learning program out of concern for COVID-19, although the school may reopen for in-person attendance later in the year. The employee may take FFCRA leave while the child's school remains closed for in-person attendance.

A school is not considered closed or unavailable if:

- The school remains open for in-person attendance but allows parents to opt for a remote learning program. The employee is not entitled to FFCRA leave because they have chosen for their child to remain home.



**A small business may be exempt from providing FFCRA leave if providing an employee such leave would jeopardize the viability of the business as a going concern.**

This exemption applies only if:

- the employer employs fewer than 50 employees;
- leave is requested because the child's school or place of care is closed, or childcare provider is unavailable, due to COVID-19 related reasons; and
- an authorized officer of the business has determined that the absence of the employee would jeopardize the business as a going concern (more details [here](#))

**Keep in mind that employers are eligible to claim a payroll tax credit equal to 100% of FFCRA leave provided to employees.**

NFIB has created a tip sheet on FFCRA tax credits available on our website [here](#).

*This alert was developed by NFIB based on information currently available and our best interpretation of guidance from the U.S. Department of Labor. NFIB, however, cannot provide legal or tax advice and is not responsible for any errors or omissions.*

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