

LEGAL UPDATE

DOL Issues Guidance on FFCRA Leave for Summer Camp Closures

The U.S. Department of Labor (DOL) has clarified when employees may take paid leave under the Families First Coronavirus Response Act (FFCRA) for the COVID-19-related closure of a summer camp, summer enrichment program or other summer program. The clarification appears in [Field Assistance Bulletin 2020-4](#) (Bulletin) issued to field offices of the DOL's Wage and Hour Division.

Evidence of a Plan for the Child to Attend

The FFCRA allows employees to take leave from work necessitated by the closing of the employee's child's place of care—including summer camps and enrichment programs—for COVID-19-related reasons. The Bulletin directs Wage and Hour investigators, in evaluating whether an employer improperly denied FFCRA leave, to consider whether there is evidence of a plan for the child to attend the camp or program, or whether it is more likely than not that the child would have attended the camp or program had it not closed. However, the Bulletin notes that a parent's mere interest in a camp or program is generally not enough.

The Bulletin says the "multitude of possible circumstances" precludes a one-size-fits-all rule, but it mentions current enrollment in, recent prior attendance at, and acceptance on the waitlist of a camp or program as possible indicators of a plan for a child to attend.

FFCRA Leave

The FFCRA requires covered employers to provide eligible employees with two weeks of paid sick leave and 12 weeks of partially compensated expanded family and medical leave for specified COVID-19-related reasons. These reasons include the employee's need to care for his or her child whose school or place of care is closed due to COVID-19.

Highlights

- The DOL has issued a Field Assistance Bulletin on when employees may take FFCRA leave for the closure of a summer camp or other summer program.
- Investigators must consider whether there is evidence of a plan for the child to attend the camp or program.
- Enrollment, recent prior attendance, and presence on a waitlist can be evidence.

Investigators must consider whether there is evidence of a plan to attend, or if it is more likely than not that the child would have attended.

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