



DOL Continues to Issue FFCRA Guidance

The DOL has created a page of FAQs, which it has continued to add to in recent days, that provides answers to most of the biggest and most pressing questions regarding the FFCRA

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

In particular the FAQs:

- Provide that the law will go into effect on April 1, 2020. As we previously noted, the text of the FFCRA states that the act takes effect “not later than 15 days after the date of enactment.” Thus, the widespread understanding was that the FFCRA would go into effect on April 2 (the 15th day after enactment). The DOL has made it clear that this is not the case and that the law will be effective April 1, 2020. See FAQ #1.
- Confirm that employees will only be able to take leave under the FFCRA if the employer otherwise has work for them to do. In other words, if an employee is furloughed before or after April 1, the employee will not be eligible for FFCRA. Likewise, if an employee’s hours are reduced, the employee will only be able to take FFCRA leave to receive paid leave based on their reduced schedule. See FAQ # 23 through 28.
- Specify that employers will not receive credit for any leave for FFCRA purposes that they have voluntarily provided to employees prior to April 1. As of April 1, any employee who is eligible for FFCRA leave must receive the full leave regardless of any leave previously provided to them.
- Provide guidance on how employers should calculate whether they are under or over the 500 employee threshold for the purposes of the FFCRA. See FAQ #2.
- Explain the general framework for businesses with less than fifty employees to claim an exemption to the FFCRA and specify that the business may do so if an officer of the business determines the business falls into one of three scenarios as described in the FAQs. See FAQ # 58 and 59.

The FAQs are among the helpful resources that the Department of Labor has provided on its COVID-19 site, which we would encourage you to keep an eye on for further updates - <https://www.dol.gov/agencies/whd/pandemic>

On that site, the DOL has published the model notice that employers will be required to post and advise employees of their rights under the FFCRA. However, the DOL will need to revise and reissue these notices before April 1 as the CARES Act changes the maximum that an employee may receive while on emergency FMLA (reducing the max from \$12,000 to \$10,000).



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