

CLIENT ALERT: U.S. Department of Labor Updates Q&A on the Families First Coronavirus Response Act

Over the past month, MBJ has issued a number of [client alerts](#) related to COVID-19 and the Families First Coronavirus Response Act (“FFCRA”). Since the FFCRA was signed into law, the United States Department of Labor (“DOL”) has been working on and issuing guidance materials, including a list of questions and answers (“Q&A”), a sample employee rights poster, and a temporary rule. As the DOL has been working to implement the new law, it has revised and updated its Q&A, with the most recent updates being published on April 20, 2020.

The newest Q&A seemingly addresses issues that have been presented to the DOL since the FFCRA’s enactment on April 1, 2020, and offers guidance for interpreting the law and the accompanying temporary rule. Salient topics from the latest Q&A revisions include:

- Further detail on calculating employee leave entitlements for both Emergency Paid Sick Leave and Emergency Family and Medical Leave;
- Further detail on computing an employee’s “regular rate” for purposes of Emergency Paid Sick Leave and Emergency Family and Medical Leave;
- Additional clarification regarding when an employer can require the use of paid time off under company policy, and when the choice belongs to the employee, during FFCRA leaves (Clarification comports with the summary MBJ has already provided on this subject [here](#), and provides an additional alternative to assist employees to receive their full pay after the first two weeks of Emergency Family and Medical Leave by allowing the employer and employee to agree, subject to federal or state law, to use accrued employer-provided paid leave to supplement the 2/3 pay);
- Reminders that stay at home and shelter in place orders are the same as isolation/quarantine orders, but that they only entitle an employee to leave if the order itself is the reason the employee is unable to perform work (or telework) that the employer has available for the employee;
- Employee recovery in DOL FFCRA enforcement actions.

The full Q&A can be found [here](#). As the DOL has updated its guidance and interpretation of the FFCRA leave laws on multiple occasions, employers should make sure they make decisions based on the most up-to-date information available. Employers with questions about FFCRA, FMLA, other employee illness, or disability and/or medical leave laws should consult with their MBJ attorney.

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