

LEGAL UPDATE

DOL Issues Corrections to FFCRA Regulations

On April 8, 2020, the U.S. Department of Labor (DOL) released [corrections to regulations](#) published under the Families First Coronavirus Response Act (FFCRA). The regulations, published April 6, 2020, clarify and explain the employee leave provisions under the FFCRA's Emergency Family and Medical Leave Expansion Act (EFMLEA) and Emergency Paid Sick Leave Act (EPSLA).

While the corrections mainly address minor drafting errors in the regulations, some of the changes may impact employers' implementation of the law.

Substitution of Other Paid Leave

Two of the DOL corrections concern language about the substitution of accrued paid leave under the EFMLEA. Specifically, the corrections delete a paragraph in the preamble and in § 826.70(f) that said neither the employee nor the employer may require the substitution of an employee's accrued paid leave for EFMLEA leave.

This correction is consistent with different language in the regulations (and an FMLA provision) allowing employees to elect, or employers to require, the use of any accrued leave available for child care purposes concurrently with EFMLEA leave.

Period During Which Leave May Be Taken

The corrections change a reference in the regulations to the period during which EFMLEA leave may be taken. Before the correction, § 826.70(e) said the permissible period for leave was April 2, 2020 – Dec. 31, 2020. The correction changes the period to April 1, 2020 – Dec. 31, 2020, which is consistent with prior DOL guidance.

Important Dates

March 18, 2020

FFCRA enacted, containing two employee paid leave laws, among other measures intended to alleviate the effects of COVID-19 on workers.

April 6, 2020

DOL published regulations for the FFCRA employee leave provisions.

April 8, 2020

DOL issued corrections to the FFCRA regulations.

The corrections to the FFCRA regulations may affect employers' implementation of the law.

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