

March 30, 2020

## Legal Update – Labor and Employment

### Q&A Clarifying Family First Coronavirus Response Act

Late March 26 the DOL issued an expanded Q&A clarifying aspects of the expanded Family and Medical Leave and the Paid Sick Leave benefits under the Family First Coronavirus Response Act (“FFCRA”).

According to the Q&A, an employer who closes its business, whether before or after the FFCRA’s effectiveness (April 1, 2020), is not required to grant paid leave under the FFCRA. This is so whether the employer closed due to a state or federal directive or whether the employer says it will reopen in the future.

Similarly, employees laid off for lack of work are not entitled to paid leave under the FFCRA even if the employer remains open.

The implications of the above provisions for employers subject to mandatory closing under Governor Wanda Vazquez’ Executive Order 2020-23, is that they do not have to grant paid FFCRA leave to their employees. Only if the employer is operating remotely, and the employee is unable to work or telework because of an FFCRA covered reason, would he or she eligible for FFCRA leave.

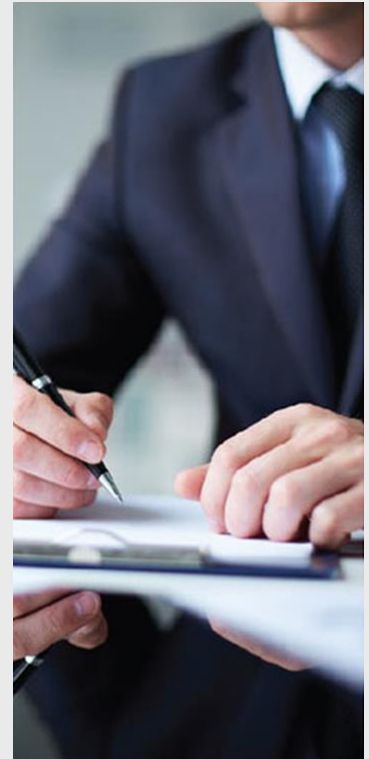
The Q&A also addresses intermittent leave, how to determine if an employer meets the employee threshold, how to compute the regular rate, and how to qualify for the small employer exception, among other aspects of the law.

The original document can be accessed here:  
<https://www.dol.gov/agencies/whd/pandemic/ffcra-questions>

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