



This article presents general guidelines for Georgia nonprofit organizations as of the date written and should not be construed as legal advice. Always consult an attorney to address your particular situation.

Families First Coronavirus Response Act Update: New Guidance on Summer Childcare Leave and Reporting FFCRA Payments to the IRS

Summer Childcare Leave

On June 26, 2020, the Wage and Hour Division of the U.S. Department of Labor (DOL), issued [Field Assistance Bulletin No. 2020-4](#), providing guidance to employers on when they must allow an employee to take leave under the Families First Coronavirus Response Act (“FFCRA”) to care for a child whose summer camp, summer enrichment program, or other summer program is closed for COVID-19 related reasons.

Under the FFCRA, covered employers are required to provide up to two weeks of sick leave and up to twelve weeks of family leave to employees who are unable to work or telework due to several reasons, including a lack of available childcare. Please see our article on [New Family Leave and Sick Leave Obligations for Employers Signed into Law](#) and related [FAQs](#) for additional information about the FFCRA.

Although prior guidance provided by the DOL addressed school and other childcare facility closings, the DOL has issued this new guidance to clarify that summer camps and summer enrichment programs are considered “places of care” under the FFCRA and to set out more specific rules related to leaves that may be available due to the closure of these programs.

The DOL’s guidance explains how an employee can qualify for childcare leave based on the closure of a summer camp, summer enrichment program, or other summer program or based on the fact that such a program is operating at a reduced capacity, such that some children who would ordinarily have attended that camp or program might not be able to do so.

As with school or childcare center closures, an employee who requests leave to care for a child based on the closure or reduced capacity of a summer camp, summer enrichment program, or other summer program must provide:

1. The name of the camp or program that would have been the place of care had it not been closed or reduced;
2. The name of the child;
3. A statement that no other suitable person is available to provide care; and
4. An explanation of the need for leave and a statement that the employee is unable to work because of that need.

In addition, the employee must also demonstrate that the “specific summer camp or program would have been the place of care of an employee’s child had it not closed for COVID-19 related reasons.” There is no “one-size-fits-all rule” with respect to how an employee needs to demonstrate that the employee planned to send his or her child to a summer camp, summer enrichment program, or other summer program. Employees can support their need for FFCRA-related leave, for example, by demonstrating (1) that their child applied to the program, (2) that they sent in a deposit, (3) that the child was enrolled in a program before it was closed due to

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COVID-19, or (4) that the child attended a camp or program in recent prior summers and was eligible to attend again.

A parent's "mere interest" in a program generally will not be sufficient to show the child would have been in that program and entitle the employee to FFCRA-related leave. The employee must show that it was more likely than not that the child would have been enrolled had the program not been closed due to COVID-19. This is the standard employers should use in evaluating requests from their employees for this leave. Employers should approach these requests flexibly, take caution to review all of the facts and circumstances surrounding an employee's request, and discuss with legal counsel, if necessary.

As with all FFCRA-related leave requests, employers should carefully document the basis for the requested leave and track leaves granted, taken, and denied in order to comply with recordkeeping requirements and to obtain applicable tax credits.

Please contact your PBPA attorney with any questions about the FFCRA or its applicability to any situation that arises in your workplace.

Reporting Payments to the IRS

This [notice](#) recently issued by the Internal Revenue Service ("IRS") provides guidance for employers and their payroll providers on how to report wage payments under the FFCRA to the IRS. Nonprofits should check with their payroll providers to ensure that they report these wage payments properly.

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