

Department of Labor Adds to Still-Growing Body of Guidance on the Families First Coronavirus Response Act

By Karen Adinolfi

On Monday, July 20, 2020, the Department of Labor issued new guidance under the Families First Coronavirus Response Act (FFCRA) which covers to remote work and additional issues related to the COVID-19 pandemic. A summary list is below.

- Employers may not treat employees differently because of time that the employee took off under the FFCRA for possible COVID-19 exposure, but, however, employers may apply broadly applicable workplace policies. For instance, if the employer has a policy that says anyone who interacted with a person who contracted the novel coronavirus may not return to work until they present a negative test, such would be permissible, in that it treats everyone the same, regardless of whether the employee took leave.
- An employer may not refuse to bring an employee back to work from furlough because of the perception or actual knowledge that the employee will need to take leave under the FFCRA to care for their children. Such would be prohibited retaliation or discrimination against an employee for usage of leave under the FFCRA.
- Time during which an employee is furloughed is not to be counted as leave under the FFCRA. Employees who return from furlough should be put in the same position with respect to amount of leave under the FFCRA left as they were first furloughed.
- Employees who used to work on-site but who subsequently transferred to a work-at-home arrangement must still, by and large, be compensated in conformance with the Fair Labor Standards Act. However, employers who provide flexibility to a remote employee to take time during the day to complete non-work tasks, such as child care, need only pay the employee for the time actually worked. This is a change from the FLSA's "continuous workday" principle which provides that employees, except for meal periods, do not have to track time in and out if they perform non-work tasks.
- The DOL will, through the end of 2020, allow telemedicine visits to be treated the same as in-person medical appointments under the Family Medical Leave Act.

If you have questions or need assistance with any of these issues, please contact any of the listed Roetzel attorneys.

Doug Spiker

Practice Group Manager

Employment Services

216.696.7125 | dspiker@ralaw.com**Karen Adinolfi**330.849.6773 | kadinolfi@ralaw.com**Aretta Bernard**330.849.6630 | abernard@ralaw.com**Bob Blackham**216.615.4839 | rblackham@ralaw.com**Michael Brohman**312.582.1682 | mbrohman@ralaw.com**Eric Bruestle**513.361.8292 | ebruestle@ralaw.com**Arthur Brumett II**216.615.4856 | abrumett@ralaw.com**Helen Carroll**330.849.6710 | hcarroll@ralaw.com**G. Frederick Compton**330.849.6610 | fcompton@ralaw.com**Leighann Fink**330.849.6633 | lfink@ralaw.com**Nathan Pangrace**216.615.4825 | npangrace@ralaw.com**Monica Frantz**216.820.4241 | mfrantz@ralaw.com**Barry Freeman**216.615.4850 | bfreeman@ralaw.com**Morris Hawk**216.615.4841 | mhawk@ralaw.com**Phil Heebsh**419.708.5390 | pheebsh@ralaw.com**Deirdre Henry**216.615.4823 | dhenry@ralaw.com**Paul Jackson**330.849.6657 | pjackson@ralaw.com**Doug Kennedy**614.723.2004 | dkennedy@ralaw.com**Corey Kleinhenz**513.361.8282 | ckleinhenz@ralaw.com**Jonathan Miller**419.254.5273 | JDMiller@ralaw.com**Stephanie Olivera Mittica**330.849.6671 | solivera@ralaw.com**Nancy Noall**216.820.4207 | nnoall@ralaw.com**Brian Tarian**614.723.2028 | btarian@ralaw.com