DOL Issues New Q&As on COVID-19 and the FFCRA as of August 27, 2020

On July 27, 2020 we published a client alert about the DOL’s Q&A on COVID-19 with respect to the laws it enforces – the Family and Medical Leave Act (FMLA), the Fair Labor Standards Act (FLSA), and the Families First Coronavirus Response Act (FFCRA). Again, on August 27, 2020, the DOL published new Q&A’s about the FFCRA and employee eligibility for the paid leave with the reopening of schools.

In Question 98, the DOL addressed whether employees would be eligible for paid leave if their child’s school was rotating in person versus virtual attendance. Specifically, the DOL answered that an employee is eligible for leave under FFCRA on the child’s designated remote learning days provided the employee is actually needed to care for the child and there is no other available suitable person.

In Question 99, the DOL stated that employees who elect remote learning (when in person learning is available) at their child’s school are NOT eligible for leave under FFCRA as the child’s school is not closed.

In Question 100, that employees remain eligible for leave under FFCRA when their child’s school is closed even if the school may reopen for in-person learning later in the school year. The employees will be eligible until such time as their child’s
school reopens.

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