

SCHOOL LAW

INFORMATION MEMO

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U.S. Department of Labor Clarifies How to Track an Employee's FMLA Leave Use During a School Closure of Less Than One Week

On Jan. 5, 2026, the U.S. Department of Labor issued an [opinion letter](#) clarifying how schools must track an employee's Family and Medical Leave Act (FMLA) utilization during school closures of less than one week.

Generally, an employee's statutory FMLA entitlement is based on workweeks of leave. When an employee takes leave for part of a workweek, the amount of leave taken is determined based on the actual week in which the employee takes leave, and only the amount of leave the employee actually takes is counted for FMLA purposes. Therefore, when a school closes for part of a week during which an employee uses less than one full week of leave pursuant to the FMLA, the period when the school was closed must not be counted as FMLA leave, unless the employee was scheduled and expected to work during the period and did not.

The Department of Labor provides the following example: if an eligible employee takes FMLA leave each Tuesday afternoon for physical therapy, but the school is closed all day on Tuesday because of inclement weather and the employee is not required to report to work, the time the employee utilized for that day must not be deducted from the employee's FMLA leave entitlement.

Conversely, when school is closed for part of a week during which an employee is slated to use a full week of FMLA leave, the entire week may be counted as FMLA leave. For example, if an employee was on FMLA leave from Monday through Friday, but the school closed on Tuesday, the full week of FMLA leave may be counted as FMLA leave for the employee, despite that the employee was not required to report to work on Tuesday due to the closure.

The opinion letter explains that whether a school closure was planned or unplanned does not impact the amount of FMLA leave an employee must use, nor does the specific reason for a school's temporary closure. Whether a school requires an employee to work on a future "make up" day also does not impact the analysis, because the "make up" day is scheduled to satisfy the school's instructional hour mandate and is unrelated to the employee's protected use of FMLA leave. The opinion letter further highlights that a school employee's ability to take FMLA leave on a "make up" day must be evaluated independently of the day that "make up" day replaces.

If you have any questions about this update, please contact attorneys [Sara Colacino, Esq.](#), [Kathryn Stiffler, Esq.](#) or any Bond attorney with whom you work regularly.

