

New Family and Medical Leave Act (FMLA) Regulations Effective: New Notice Poster and Model Forms Available

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As of March 8, 2013, employers with 50 or more employees are required to post the Department of Labor's (DOL) new **Family and Medical Leave Act (FMLA)** notice poster incorporating the recently issued final regulations, which incorporate amendments made by the National Defense Authorization Act (NDAA) and the Airline Flight Crew Technical Corrections Act (AFCTCA). The new notice poster can be found at the DOL's website [here](#). Federal law requires that all covered employers post the FMLA notice in a conspicuous place, even if no employees are eligible for FMLA leave. The deadline for employers to begin posting the new notice poster was March 8, 2013, so any employer who has not already done so should act now.

In addition to the new poster, the DOL has issued revised model forms that reflect the final regulations. Most notably, the DOL has issued an all-new certification form: Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave (WH-385-V). This form reflects the FMLA's expanded provisions that allow eligible employees to use Military Caregiver Leave to care for a veteran who was (not dishonorably) discharged from the military within the past five years.

While there are several new provisions of the FMLA that relate to job-protected leave for airline personnel and flight crews, there have been significant changes made that apply to all employees. Specifically, there have been significant changes made to Qualifying Exigency Leave which include the following: expanding the number of days that an eligible employee may take for rest and recuperation qualifying exigency leave, revising the definition of "military member" for purposes of leave, changing the type of duty required for coverage, and granting certain employees leave rights to care for the parents of a military member.

In addition, Military Caregiver Leave under the FMLA has been expanded. Under the new regulations, the definition of "covered servicemember" has been expanded to include covered veterans who are undergoing medical treatment, recuperation, or therapy for a serious injury or illness. Under the final regulations, a "covered veteran" is an individual who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran. Moreover, the definition of a "serious injury or illness" for a current servicemember has been expanded to include injuries or illnesses that existed before the beginning of the member's active duty that were aggravated by service in the line of duty while on active duty in the Armed Forces.

For more detailed information, the DOL's side-by-side comparison of the 2008 and 2013 regulations can be found [here](#).

While many of the changes relate to provisions that are seldom used by most employers (with the exception of airlines), every FMLA-covered employer must post the new notice poster and should review its forms and policies to ensure compliance with the new regulations.

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