

# It's time to replace your FMLA poster ... again



By March 8, 2013, employers covered under the FMLA (those with 50 or more employees) must display **the new version of the *Employee Rights and Responsibilities Under the Family and Medical Leave Act* poster**.

This new version of the one-page poster includes new changes to FMLA rights relating to military family leave and military caregiver leave. Plus, it includes technical changes for FMLA eligibility for airline flight crews and flight attendants.

Those changes were originally approved by Congress in 2008 and 2009. On Feb. 5, 2013—which was also the 20th anniversary of the signing of the FMLA law in 1993—the U.S. Department of Labor issued final regulations that implement and clarify the military and flight-crew changes. At the same time, the DOL published an updated version of the employer [poster](#), a [fact sheet](#) on the amendments and a new [Employee's Guide to Military Family Leave under FMLA](#).

**The poster.** All employers [covered under the FMLA](#) are required to display this poster, which explains employees' rights under the law and tells workers how to file a complaint. You must display the poster, the DOL says, in "a conspicuous place where employees and applicants for employment can see it." If your organization is covered by the law, a poster must be displayed at all locations, even if there are no eligible employees.

Plenty of HR and poster vendors will be happy to sell you copies of this new version. But be aware: You don't need to spend a penny to comply with the law's new posting requirement. You can download a free copy of the official approved version at the DOL's website: [www.dol.gov/whd/regs/compliance/posters/fmla.htm](http://www.dol.gov/whd/regs/compliance/posters/fmla.htm).

The correct version of the updated poster includes this notation in the bottom right corner: "WHD Publication 1420, Revised February 2013."

Also, you don't need to wait to March 8 to display the new poster. The DOL says you can start using the new poster immediately, or you may still use the [old FMLA poster](#) through March 7, 2013.

**Military Leave.** The military-related FMLA changes finalized in these regulations and new poster would provide families of eligible veterans with the same job-protected FMLA leave now available to families of military service members. It would also allow more military families to take leave for activities that arise when a service member is deployed. Specifically, the FMLA regulations say:

- Eligible employees with a spouse, son, daughter or parent on active duty (or call to active duty status) in



the National Guard or Reserves in support of a military operation can use their 12-week FMLA entitlement to attend certain military events, arrange for alternative childcare, address certain financial and legal arrangements, attend certain counseling sessions, and attend post-deployment reintegration briefings.

- Eligible employees can take up to 26 weeks of leave to care for someone who is a current member of the Armed Forces, including a member of the National Guard or Reserves, who has a serious injury or illness incurred in the line of duty on active duty that may render the servicemember medically unfit to perform his or her duties.

The final regulations on military leave did include a handful of minor differences from the 2008 regulations. The DOL issued a [side-by-side comparison](#) of the changes. Plus, the agency issued three new forms that employers can use to certify employees' use of military-related leave:

- [WH-384 - Certification of Qualifying Exigency For Military Family Leave](#)
- [WH-385 - Certification for Serious Injury or Illness of Current Servicemember -- for Military Family Leave](#)
- [WH-385-V - Certification for Serious Injury or Illness of a Veteran for Military Caregiver Leave](#)

**One final thought ...** If employers were looking for any good news in this DOL announcement, they didn't find it.

The DOL took the opportunity of the FMLA's 20th birthday to trumpet what they see as the law's [remarkable success](#), saying employers' administration of the law "has achieved a level of stability."

But many employers would argue differently.

"Compliance with the regulatory scheme of the FMLA remains a challenge for employers," says Al Robinson, a former administrator of the DOL's Wage & Hour division, now an attorney with Ogletree Deakins in Washington, D.C. "This final rule does little to address the administrative burdens caused by the FMLA regulations."