

CARLTON FIELDS

ATTORNEYS AT LAW

REVISIONS TO THE FAMILY & MEDICAL LEAVE ACT

EFFECTIVE JANUARY 16, 2009

The Family and Medical Leave Act of 1993 ("FMLA") provides that covered employers must grant an eligible employee up to twelve (12) workweeks of unpaid leave during any 12-month period for one or more of the following reasons: for the birth and care of the newborn child of the employee; for placement with the employee of a son or daughter for adoption or foster care; to care for an immediate family member (spouse, child, or parent) with a serious health condition; or to take medical leave when the employee is unable to work because of a serious health condition.

On November 17, 2008, the Department of Labor ("DOL") published its Final Rule to implement the provisions of the National Defense Authorization Act ("NDAA"), an amendment to the FMLA which provides new military family leave entitlements, and to update the regulations under the FMLA. The Final Rule will take effect on January 16, 2009. The Final Rule renumbered and reorganized certain regulations, altered former interpretations, and clarified regulations that had been subject to conflicting court interpretations. Additionally, in response to the NDAA, the Final Rule implements two new military family leave entitlements for eligible specified family members:

- (1) Up to 12 weeks of leave for certain qualifying exigencies arising out of a covered military member's active duty status, or notification of an impending call or order to active duty status, in support of a contingency operation, and
- (2) Up to 26 weeks of leave in a single 12-month period to care for a covered service member recovering from a serious injury or illness incurred in the line of duty on active duty. Eligible employees are entitled to a combined total of up to 26 weeks of all types of FMLA leave during the single 12-month period.

The Final Rule also issued revised and/or new forms under the FMLA, including medical certification forms, an eligibility notice, a designation notice, and a revised FMLA poster. Previous forms and notices will be outdated as of January 16, 2009.

If your company employs more than 50 employees, it is imperative that you update your company's FMLA policies and procedures pursuant to the Final Rule. Carlton Fields' lawyers can assist you with this process.

For more information, please contact James R. Wiley at 813.229.4325 or Lori Y. Baggett at 813.229.4220.



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