



COMPLIANCE BULLETIN

DOL Updates Model FMLA Poster

HIGHLIGHTS

- Employers covered by the FMLA are required to prominently post a general notice about the FMLA where it can be readily seen by employees.
- The DOL recently updated its model FMLA poster.
- Covered employers can use the DOL's updated model poster or continue using the DOL's prior model poster.

LINKS AND RESOURCES

- [Model FMLA poster](#) (also available in [Spanish](#))
- DOL's [FMLA Employer Guide](#)
- FMLA [Frequently Asked Questions](#)
- DOL's FMLA [web page](#), which includes links to model forms and other agency guidance

OVERVIEW

Every employer covered by the Family and Medical Leave Act (FMLA) must display an informative general notice about the FMLA. Employers may use the Department of Labor's (DOL) **model FMLA poster** to satisfy this notice requirement. Employers may also create their own poster, as long as the poster includes the information contained in the DOL's FMLA poster.

In April 2016, the DOL **updated its model FMLA poster**. The new model includes most of the same information as the prior model, which was released in February 2013, but is reorganized to make it easier to understand. Covered employers may start using the updated model notice or may continue to use the prior model.

ACTION STEPS

Employers that are subject to the FMLA should confirm that they have an FMLA poster displayed in plain view where employees can easily see it.

Employers using the February 2013 version of the model poster do not have to replace it with the DOL's updated model. However, employers may want to make this switch if they prefer the updated model's reader-friendly layout. Employers with employee handbooks that include the DOL's model FMLA poster should also consider whether to update their handbooks with the new model.

Provided By:
JRG Advisors, LLC

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Family and Medical Leave Act

The FMLA is a federal law that provides eligible employees of covered employers with unpaid, job-protected leave for specified family and medical reasons.

Every employer covered by the FMLA must display or post an informative general notice about the FMLA. Also, to administer FMLA leaves, employers must provide certain notices to employees, such as a notice designating whether a requested leave will qualify as FMLA leave. Employers may also require that employees provide certifications to substantiate their eligibility for certain types of FMLA leave.

The DOL has provided a model poster and model notices and certifications to help employers meet their FMLA obligations. The DOL's model FMLA forms are optional. Instead of using the DOL's model forms, employers may decide to create their own FMLA forms.

Poster Requirement

Every employer covered by the FMLA must display or post an informative general notice about the FMLA. The poster must be displayed in a prominent place where it can be readily seen by employees, and it must have large enough text so it can be easily read. Electronic posting is permissible. Employers that willfully violate this posting requirement may be assessed a **civil money penalty of up to \$110** for each separate offense.

The FMLA poster must explain how the FMLA works and provide information on how employees can file a complaint with the DOL's Wage and Hour Division. Covered employers must display the poster even if they do not have any employees who are eligible for FMLA leave.

In addition to displaying a poster, if a covered employer has any FMLA eligible employees, it must provide each employee with a general notice about the FMLA in the employer's employee handbook or other written materials about leave and benefits. If no handbook or written leave materials exist, the employer must distribute this general notice to each new employee upon hire.

Private-sector employers are covered by the FMLA if they have 50 or more employees in 20 or more workweeks in the current or previous calendar year.

DOL Model FMLA Poster

The DOL has provided a model FMLA poster that employers may use to satisfy the FMLA general notice requirement. Employers are not required to use the DOL's model poster. Employers may use another format for their FMLA poster, as long as their poster includes (at a minimum) all of the information contained in the DOL's model poster.

The DOL updated its model FMLA poster in April 2016. The new model includes most of the same information as the prior model, which was released in February 2013. However, the information is reorganized in the updated model to make it easier to understand. According to the DOL, covered employers may start using the updated model notice or may continue to use the prior model.

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In addition, if a significant portion of an employer's employees do not read and write English, the employer must provide the general notice in the language in which they can read and write. A Spanish version of the DOL's model FMLA poster is available on the DOL's website.

Other Model FMLA Forms

In addition to the model FMLA poster, the DOL has the following model forms available for administering FMLA leaves. The DOL did NOT update any of its other model notices in connection with the April 2016 update to its model FMLA poster.

Type of Notice	Description
Notice of FMLA Eligibility and Rights and Responsibilities (Form WH-381)	After an employer has determined an employee's FMLA eligibility status, the employer must provide an eligibility notice, informing the employee whether he or she is eligible for FMLA leave. Employers must also provide a rights and responsibilities notice when they provide the eligibility notice. The eligibility and rights and responsibilities notices are often combined into one notice.
FMLA Designation Notice (Form WH-382)	An employer must designate a leave as FMLA-qualifying and provide a designation notice to the employee. This notice informs the employee that the requested leave will be designated as FMLA leave and sets out the rules that apply to the employee's leave.
A health care provider's certification form for an employee's serious health condition (WH-380-E)	An employer may require a medical certification when an employee requests leave for his or her own serious health condition. An employer may use the DOL's model form for obtaining this certification.
A health care provider's certification form for a family member's serious health condition (WH-380-F)	An employer may require a medical certification when an employee requests leave for a family member's serious health condition. An employer may use the DOL's model form for obtaining this certification.
A certification of qualifying exigency for military family leave (WH-384)	When an eligible employee requests qualifying exigency leave, an employer may request certain information and documentation. The DOL's model certification form may be used for this purpose.
A certification for serious injury or illness of a covered service member (WH-385)	An employer may require that a request for military caregiver leave be supported by a certification. The certification may be completed by a Department of Defense, Veterans Affairs or TRICARE health care provider, or by a private health care provider. The DOL's model certification forms may be used for this purpose.
A certification for serious injury or illness of a veteran for military caregiver leave (WH-385-V)	