

DOL Compliance

Preparing for Increased Enforcement

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September 13, 2010

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Agenda

- US DOL, Wage and Hour Division
- Overview of FLSA and FMLA requirements
- Update on current regulatory and legislative changes
- Conducting FLSA and FMLA compliance audits

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US Department of Labor Wage & Hour Division (WHD)

Enforces
Fair Labor Standards Act
&
Family and Medical Leave Act

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Wage & Hour Division (WHD)

Mission is to promote and achieve compliance with labor standards to protect and enhance the welfare of the Nation's workforce.

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Fair Labor Standards Act

- Minimum wage
- Overtime
- Recordkeeping
- Child Labor

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Coverage

- Enterprise coverage
- Individual coverage

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Minimum Wage

- The federal minimum wage for covered nonexempt employees is \$7.25 per hour.

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Overtime

- Employees covered by the FLSA overtime provision must receive overtime pay for hours worked in excess of 40 in a workweek of at least one and one-half times their regular rate of pay.

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Exemptions

- White Collar Exemptions
- From Minimum Wage and Overtime
- From Overtime

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Deductions

- Exempt Employees
- Non Exempt Employees

Recordkeeping

- Every covered employer must keep certain records for each worker.
- These records must be accurate.

Common FLSA Violations

- Comp time
- Hours Worked
- Regular Rate Determination
- Off the Clock Work
- Misclassification of Exempt Status
- Wage/Salary Deductions

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Child labor

- Child labor provisions are designed to protect the educational opportunities of youth and prohibit their employment in jobs that are detrimental to their health and safety.

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Child Labor

- Age
- Hours Worked
- Safety Requirements

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Common Child Labor Violations

- Working too many hours
- Working too late at night
- Working too early in morning
- Working in Hazardous occupations

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Family Medical Leave Act

- Designed to help employees balance their work and family responsibilities by allowing them to take reasonable unpaid leave for certain family and medical reasons.

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Covered Employers

- Any person engaged in commerce or in any industry or activity affecting commerce, who employs 50 or more employees for each working day during each of 20 or more calendar workweeks in the current or preceding calendar year.

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Eligible Employees

To be eligible for FMLA benefits, an employee must:

- ❑ work for a covered employer;
- ❑ have worked for the employer for a total of 12 months;
- ❑ have worked at least 1,250 hours over the previous 12 months; and
- ❑ work at a location where at least 50 employees are employed by the employer within 75 miles.

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Reasons for Leave

- ❑ Serious Health Condition (self or covered relation)
- ❑ Birth/Adoption/Placement Child
- ❑ Qualifying Exigency
- ❑ Military Caregiver Leave

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Length of Leave

- Specified family and medical reasons, or for any Qualifying Exigency Leave: A covered employer must grant an eligible employee up to a total of 12 workweeks of unpaid leave.
- Military Caregiver Leave: total of 26 workweeks of unpaid leave during a "single 12-month period"

Notice

- Employer
- Employee

Common FMLA Violations

- ❑ Refusal to grant leave
- ❑ Refusal to restore to equivalent position
- ❑ Termination
- ❑ Discrimination

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FLSA Updates

- ❑ Breaks for Nursing Mothers
- ❑ Child Labor
- ❑ Interns
- ❑ Definition of Donning and Doffing

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FMLA Updates

- National Defense Authorization Act 2010
- DOL clarifies definition of 'son and daughter'

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Increased Enforcement

- FY10
- FY11
- "We Can Help"
- "Plan/Prevent/Protect"

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Self Audits

- Self-audits can help identify potential problem areas allowing for corrective action

Self-Audit Steps

- Education
- Develop Checklist based on applicable regulations
- Review policies and practices
- Review Recordkeeping
- Train staff

Summary

- In a time of increased regulatory enforcement, employers should understand and comply with applicable laws and regulations to reduce risk of costly fines and penalties.

Questions?

Helpful Resources

- Fact Sheets
- elaws
- CFR
- DOL

<http://www.wagehour.dol.gov>

1-866-4-USWAGE (1-866-487-9243)

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FLSA Resources

elaws - Fair Labor Standards Act Advisor

<http://www.dol.gov/elaws/flsa.htm>

Handy Reference Guide to the Fair Labor Standards Act

<http://www.dol.gov/whd/regs/compliance/hrg.htm>

FLSA Coverage Resources

Fact Sheet #14: Coverage Under the Fair Labor Standards Act (FLSA)

<http://www.dol.gov/whd/regs/compliance/whdfs14.htm>

FLSA Overtime Resources

Fact Sheet #23: Overtime Pay Requirements of the FLSA

<http://www.dol.gov/whd/regs/compliance/whdfs23.pdf>

<http://www.dol.gov/dol/topic/wages/overtimepay.htm>

FLSA Exemption Resources

http://www.dol.gov/whd/regs/compliance/fairpay/fs17a_overview.pdf

<http://www.dol.gov/elaws/esa/flsa/screen75.asp>

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FMLA Resources

29 CFR Part 825 The Family and Medical Leave Act

<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=48d6ee3b99d3b3a97b1bf189e1757786&rgn=div5&view=text&node=29:3.1.1.3.53&idno=29>

DOL FMLA

<http://www.dol.gov/compliance/laws/comp-fmla.htm>

<http://www.dol.gov/whd/regs/compliance/1421.htm>

Serious Health Condition

http://www.dol.gov/dol/allcfr/title_29/Part_825/29CFR825.113.htm

http://www.dol.gov/dol/allcfr/esa/title_29/part_825/29CFR825.114.htm

Fact Sheet #28: The Family and Medical Leave Act of 1993

<http://www.dol.gov/whd/regs/compliance/whdfs28.pdf>

Fact Sheet #28A: The Family and Medical Leave Act Military Family Leave Entitlements

<http://www.dol.gov/whd/regs/compliance/whdfs28a.pdf>

The Family Medical Leave Act (FMLA) elaws Advisor is currently being revised