

January 15, 2009

New FMLA Rules Take Effect on Friday, January 16th

On Friday, January 16, new regulations under the federal Family and Medical Leave Act go into effect. The rules require employers with 50 or more employees to post the new FMLA General Notice in the workplace. In addition, covered employers with one or more FMLA-eligible employees must include the General Notice in their employee handbook or other written policies or manuals describing employee benefits and leave provisions. An employer without a handbook or written guidance is required to provide this General Notice to new employees upon hiring. Posting and distribution of this notice may be done electronically. We recommend that covered employers immediately post the General Notice and distribute it to employees as a handout or electronically.

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SAN FRANCISCO
CA 94104
415 464 4300 T
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Employers can download the General Notice (Revised FMLA Poster) from the [U.S. Department of Labor website](#).

Government Postpones E-Verify Compliance Date

In some welcome news for employers, U.S. Citizenship and Immigration Services (USCIS) has delayed the implementation date of a rule that will require federal contractors to use the E-Verify system to confirm, in connection with the I-9 process, whether new hires are authorized to work in the U.S. The rule is now scheduled to go into effect on February 20, 2009, instead of the original effective date of January 15.

The USCIS's postponement of the E-Verify rule grew out of a pending lawsuit, filed in December by the U.S. Chamber of Commerce and other parties, contending that the rule is invalid. Employers should note that because the new implementation date is after the presidential inauguration, there is a chance that the Obama administration will rescind the executive order that created the E-Verify requirement for federal contractors.

In the meantime, federal contractors should assume that the rule will take effect in February, and continue to take steps toward E-Verify compliance. In particular, federal contracts awarded and solicitations issued after February 20 will include a clause committing the contractors to use E-Verify. The clause will also be required in subcontracts over \$3,000 for services or construction. (Some contracts are exempt, including those for less than \$100,000 and those



that are for commercially available off-the-shelf items.) Companies will be required to enroll in and begin using E-Verify within 30 days of the contract award date.

More information on the E-Verify requirement is on the [USCIS website](#).

Miller Law Group is a Bay Area law firm that specializes in representing management in all facets of employment litigation and counseling. For more information about these new developments, or for general employment advice, please call Michele Ballard Miller (mbm@millerlawgroup.com), Kerry Freeman (kmf@millerlawgroup.com), or Carolyn Rashby (cr@millerlawgroup.com), or call (415) 464-4300.

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