

CLIENT ADVISOR

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DOL Issues New FMLA Regulations

On February 6, 2013, the US Department of Labor (DOL) issued its Final Rule implementing the 2010 Family Medical Leave Act (FMLA) amendments. The new regulations, which take effect March 8, 2013, should not result in substantial changes to the way most employers administer military caregiver and exigency leaves, however employers should be aware that the Final Rule does the following:

- adds parental care as a new category of exigency leave
- increases the time an employee may take for rest & recuperation exigency leave from 5 to 15 days
- extends military caregiver leave to

family members of certain veterans with qualifying serious injuries or illnesses

- clarifies the scope of exigency leave to family members of those in the regular armed forces
- retains the physical impossibility rule
- clarifies DOL's position concerning calculation of intermittent leave

In addition to implementing the new regulations, the DOL made minor changes updating its forms and issued a new medical certification for military caregiver leave for veterans.

Additional information and copies of the new forms are available on our website.

Noteworthy Decision

In a recent decision, the Civil Service Commission upheld the bypass of a permanent intermittent police officer based upon 4 incidents of inappropriate interactions with co-workers (3 of which were with female officers) even though he was not disciplined at the time. The Commission determined that although the appellant was arguably "blind-sided" by the Town's reliance on the incidents, they justified the bypass. Attorney Tim D. Norris represented the Town of Scituate in this matter.

DESE Guidance on Gender Identity Law

On November 23, 2011, Governor Patrick signed into law "An Act Relative to Gender Identity," which amended M.G.L. c. 76, § 5 to prohibit discrimination on the basis of gender identity of students who enroll in or attend public schools. In June, 2012, the regulations were revised to reflect that schools must provide equal access to all educational opportunities irrespective of a student's gender identity. 603 CMR §26.01-26.09. The law went into effect in July, 2012.

On February 15, 2013, the Massachusetts Department of Elementary and Secondary Education (DESE) issued guidance clarifying how the law and its regulations apply to school districts and addressing a school district's obligations when dealing with students whose gender identity is different than their birth sex.

A summary of the guidance is available on our website. CLP is available to provide professional development, policy review and counsel on the new law.



U.S. DEPARTMENT OF EDUCATION ISSUES "DEAR COLLEAGUE LETTER" With so much emphasis being placed on ensuring students with disabilities receive an adequate education, the issue of access to extracurricular athletics is often overlooked. Until recently. On January 25, 2013, the United States Department of Education (DOE), Office for Civil Rights (OCR) issued a "Dear Colleague Letter" advising school districts of their responsibility to serve students with disabilities in extracurricular athletic programs.

For more information and a copy of the letter please visit our website.



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