

# FAIR LABOR, MEDICAL LEAVE AND WORKERS' COMPENSATION

## Fair Labor Standards Act (FLSA)

### Overtime

Employers are required to pay non-exempt (hourly) employees at a rate of one and one-half times their normal hourly rate for all hours worked in excess of 40 hours per week.

### Meal Periods and Rest Breaks

Neither the FLSA nor Missouri law requires an employer to provide meal periods or rest breaks for their employees. Many employers, however, do provide breaks and/or meal periods. Breaks of short duration, from 5 to 20 minutes, are common. As a general rule, rest breaks are considered hours worked and bona fide meal periods are not considered hours worked.

In order for a meal period to be excluded from hours worked, an employee must be completely relieved from duty. You are not

completely relieved from duty if you are required to perform any duties or do any work while eating. This includes inactive or active work.

### For example:

- An office employee who is required to eat at his or her desk is not relieved from duty if he or she is required to answer the telephone or respond to customers, even if no calls are actually received.
- A factory worker who is required to watch his or her machine while eating is working and not completely relieved from duty.

It is not necessary that an employee be permitted to leave the premises if he or she is completely relieved from duty during the meal period.

## Workers' Compensation

An employee who has an injury that arises out of and in the course of employment is entitled to compensation. The employee must report the injury to the employer within 30 days of the occurrence. The employer must file a report with the Division of Workers' Compensation.

In addition, you should check your Board of Education policies to determine what, if any, additional injury reporting requirements exist. You should follow those additional reporting requirements also.

Injured employees may receive medical benefits, rehabilitation services, up to 66-2/3 percent of their weekly wage rates and lump sum settlements. Also included is a death benefit and benefits for surviving children. The employer may specify a health care provider.

Temporary total disability benefits are paid to an employee disabled from earning wages for more than three regularly scheduled work days. If the disability exceeds 14 days, then the employee will receive benefits back to the first day after the accident.

Employees have at least two years from the date of injury to file a claim for compensation, which isn't the same as filing an accident report. Claims should be filed when the employer refuses to provide benefits or there is a dispute as to the employee's degree of disability.

Claims may be filed with the Division of Workers' Compensation, P.O. Box 58, Jefferson City, MO 65102.

Depending on the complexity of the case, the employee may choose to retain an attorney.



## Family and Medical Leave Act

### Purposes of the FMLA

The Family and Medical Leave Act (FMLA) allows employees to balance their work and family life by taking reasonable unpaid leave for certain reasons. The FMLA is intended to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families and to promote national interests in preserving family integrity. The FMLA seeks to accomplish these purposes in a manner that accommodates the legitimate interests of employers, and that minimizes the potential for employment discrimination on the basis of gender, while promoting equal employment opportunity for men and women.

### Employment Eligibility

Special rules apply to certain employees of public schools—teachers, coaches, driving instructors, and some special education assistants. The standard FMLA rules apply to most teacher assistants, counselors, psychologists, curriculum specialists, cafeteria workers, maintenance workers, or bus drivers.

To be eligible for FMLA benefits, an employee must:

1. Work for an FMLA covered employer.
2. Have worked for the employer for at least a total of 12 months.
3. Have worked at least 1,250 hours over the prior 12 months.
4. Work at a location where at least 50 employees are employed by the employer within 75 miles.

The period during summer vacation when an education employee would not have been required to report to work does not count toward that employee's FMLA leave. If an employee needs to begin FMLA leave near the end of the term, special rules apply.

### Leave Entitlement

A covered employer must grant an eligible employee up to a total of 12 work weeks of unpaid leave during any 12-month period for one or more of the following reasons:

1. The birth or placement of a child for adoption or foster care;
2. To care for an immediate family member (spouse, child or parent) with a serious health condition;
3. To take medical leave when the employee is unable to work because of a serious health condition.

Furthermore, an employee can take up to 26 weeks of leave to care for a member of the armed services with a serious injury or illness. Accumulated paid leave may be used for part or all of the 12 weeks of FMLA leave.