

# Compliance Alert!

This issue of Compliance Alert provides information on:

- DOL's revised FLSA workplace poster
- DOL's Opinion Letter on calculating FMLA leave used during a week with a holiday
- EEOC's new resource on AI and Title VII

## Revised FLSA Workplace Poster

The DOL revised the FLSA workplace poster in April 2023. If you have not already posted the new poster, you should do so immediately. The poster was revised for the PUMP Act to include:

The FLSA requires employers to provide reasonable break time for a nursing employee to express breast milk for their nursing child for one year after the child's birth each time the employee needs to express breast milk. Employers must provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by the employee to express breast milk.

To download a free copy of the revised FLSA poster go to DOL's website at: <https://www.dol.gov/agencies/whd/posters/flsa>

For details about the PUMP Act, see our latest issue of HR Insights at: [www.yourHRatWork.com](http://www.yourHRatWork.com).

## DOL Opinion Letter on Calculating FMLA Leave for a Week with a Holiday

DOL issued Opinion Letter FMLA2023-2-A on May 23, 2023, which clarifies how to calculate the amount of FMLA used during a week with a holiday. Here is an overview:

- If an employee takes FMLA Leave for less than a full workweek, the amount of FMLA leave used is calculated as a proportion of the employee's actual workweek. Examples:
  - An employee who works 40 hours/week takes off 8 hours using one-fifth of week of FMLA leave.
  - A full-time employee who normally works 8-hour days works 4-hour days while on FMLA leave and, therefore, uses one-half week of FMLA leave.
- If an employee takes a full week of FMLA Leave in which a holiday falls, the entire week is counted as FMLA Leave. Example:

An employee who works Monday through Friday and takes leave for the week during which July 4<sup>th</sup> falls uses one full week of FMLA leave – not 4/5 of a week.

- If an employee takes less than a full workweek of FMLA Leave during which a holiday falls, the holiday is not counted as FMLA leave unless the employee was scheduled and expected to work on the holiday and used FMLA Leave for that day.

Example:

A full-time employee who normally works 8-hour days works 4-hour days while on FMLA leave and, therefore, uses one-half week of FMLA leave.

For a copy of DOL's opinion letter, go to DOL's website at:

[https://www.dol.gov/sites/dolgov/files/WHd/opinion-letters/FMLA/2023\\_05\\_30\\_02\\_FMLA.pdf](https://www.dol.gov/sites/dolgov/files/WHd/opinion-letters/FMLA/2023_05_30_02_FMLA.pdf)

## EEOC Releases New Resource on AI and Title VII

EEOC released a new technical assistance resource on May 18, 2023, on AI (Artificial Intelligence) and Title VII, titled Assessing Adverse Impact in Software, Algorithms, and Artificial Intelligence Used in Employment Selection Procedures Under Title VII of the Civil Rights Act of 1964. This resource, focused on preventing employment discrimination, explains the application of Title VII to an organization's automated systems, including AI. The technical resource document is designed to help employers ensure that the use of these technologies aligns with Title VII and "national values of fairness, justice, and equality."

To access the technical assistance resource, go to EEOC's website at: <https://www.eeoc.gov/select-issues-assessing-adverse-impact-software-algorithms-and-artificial-intelligence-used>

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