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FAMILY & MEDICAL LEAVE ACT
in YOUR SCHOOL

Jeffrey B. Halbert, Partner
Attorney at Law

Sponsored by:

Ann Fisher, President

HR ALTERNATIVE
CONSULTING
INCORPORATED



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**Ann Fisher, President
HR Alternative Consulting, Inc.**

HR ALTERNATIVE
CONSULTING
INCORPORATED



HR Alternative Consulting, Inc. is a Human Resource consulting firm. HR Alternative Consulting was established in 2002 as a provider of outsourced human resource services. Our goal is to provide stand-alone services or consult with your HR staff. We work to identify areas that need to be developed or improved, and then implement the right programs.

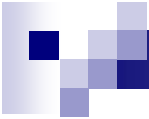
Ann Fisher has a broad background in Human Resource management. She has multi-level, hands-on human resource experience and obtained major accomplishments throughout her career. Prior to establishing HR Alternative Consulting, Ann served as Vice President of Organizational Development for a multi-location hospital throughout the United States. Ann has extensive experience as a Staffing Specialist, HR Manager, HR Director and Vice President.

Ann is founder and President of HR Alternative Consulting, Inc. Ann's education, professional certification and affiliations include:

MS – Purdue University, Industrial/Organizational Psychology
BS – University of Washington, Psychology
WBE Certified – (City & State)
Human Resource Association of Central Indiana
Society of Human Resource Management
Board Member - National Association of Women Business Owners
Advisory Board Member – HM Design

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Jeffrey B. Halbert, Partner
Attorney at Law

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Jeff Halbert is a Partner with the law firm of Stewart & Irwin, p.c. Stewart & Irwin is located downtown Indianapolis. Stewart & Irwin is recognized as a top ten law firm in Indianapolis and surrounding areas by the Indianapolis Business Journal.

Jeff focuses his practice in the area of employment and labor litigation as well as corporate and business law. He handles litigation before state and federal courts in Indiana. He also practices before numerous state and federal agencies including, but not limited to, the Equal Employment Opportunity Commission, the Indiana Civil Rights Commission, the National Labor Relations Board and the Indiana Department of Labor. He also serves as an officer of the Executive Committee of the Indianapolis Bar Association's Labor and Employment Council.

Jeff holds a bachelor's degree in history from Clarion University of Pennsylvania and a doctor of jurisprudence degree from the Ohio Northern University Claude W. Petit College of Law.

He is recognized as a highly respected labor and employment attorney. He has been published regarding FMLA regulations in the IBJ (Indianapolis Business Journal) as well as Inside Indiana with Gerry Dick. Jeff has extensive knowledge and experience on the FMLA regulations. He will focus his presentation on the FMLA basics and how the regulations specifically affect schools.

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Overview

 **Purpose and Legislative History**

 **Employer Coverage under FMLA**

 **Employee Eligibility Criteria**

 **State Leave Laws**



Types of Leave

 **Birth, Adoption or Placement in Foster Care**

 **Care for Immediate Family Member with Serious Health Condition**

 **Employee's Own Serious Health Condition**



New Regulations & Expanded Military Family Leave Rights



Active Duty Family Leave

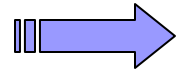
-  **Contingency Operations**
-  **Qualifying Exigency**
-  **Length of Leave**
-  **Notice Requirements**
-  **Eligible Employees**
-  **New Form Requirements (WH 384)**



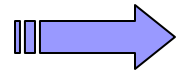
Injured Servicemember Leave



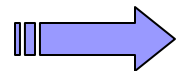
Eligible Employees



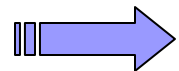
Serious Injury or Illness



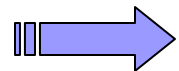
Length of Leave



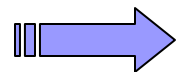
Single 12 Month Period



Next of Kin



Number of Leaves




Certification Requirements (WH 385)



Other Substantive Changes

 **New Notice Obligations (General Notice, Eligibility/Rights Responsibilities, Designation Notice)**

 **Timing of Specific Notices**

 **Retroactive Designation of Leave**

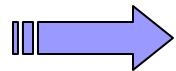
 **Consideration of Medical Information Obtained Through ADA, Paid Leave or Workers' Compensation Procedures**

 **Increased Time for Requesting Certification**

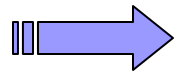
 **Deficiencies in Certification**



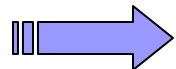
Other Substantive Changes Continued



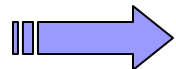
Substitution of Paid Leave



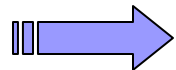
Recertification



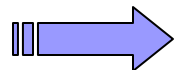
Expanded Fitness for Duty Certification Rights



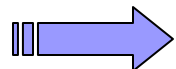
Calculation of Leave, Minimum Increments and Inability to Work Overtime



Consideration of FMLA Absences in Determining Incentive Awards



Light Duty Work



Increased Liability for Failure to Provide Timely Notice; Discussion of Disputes and Document Requirements



Serious Health Condition

 **Definition, Including Chronic Conditions**

 **Incapacitated**

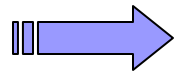
 **Treatment**

 **Cosmetic Procedures**

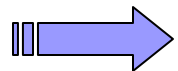
 **Pregnancy**



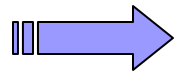
Certification Process



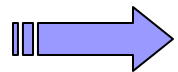
When Can it be Requested



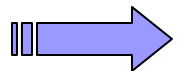
Recertification



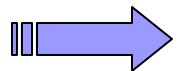
Required Information



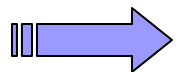
Deadlines



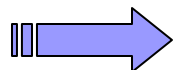
Second/Third Opinions



Deficiencies



Return to Work Certifications



Failure to Provide Fitness for Duty Certification



Intermittent Condition

 **Measuring Time Taken on Intermittent Basis**

 **Covered Conditions**

 **Unforeseeable Leave**

 **Employer Call-In Policies and Employee Discipline for Failure to Adhere to Policy**






 **Transferring an Employee**

Reinstatement

 **Same or Equivalent Position**

 **Limitations**

 **Key Employee Exception**

-  **Highest paid 10% of all employees**
-  **Substantial and Grievous Economic Injury**
-  **Reinstatement**
-  **Notice Requirements**
-  **Key employee rights**

 **Notice of Intent to Return to Work**

 **Fitness for Duty Certification**

 **Failure to Provide Certification**



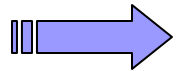
Record Keeping Requirements



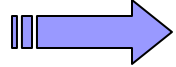
Special Rules Applicable to Employees of Schools



Educational Institutions are Covered (not colleges and universities, trade schools and preschools)



Instructional Employees



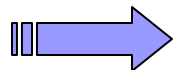
Limitations on Intermittent Leave



Right to Request Employee to Limit Leave Period or Transfer Temporarily to Alternative Position to Accommodate Recurring Periods of Leave Where Leave Constitutes 20% or More of the Working Days in the Period



Limitations on Leave Near End of Academic Year (5 week/3 week exception)



Restoration of Employment



Q & A

Thank you!

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