

FMLA REGULATIONS AMEND THE DEFINITION OF SPOUSE

Effective March 27, 2015

Two Major Features

- 1) Place of Celebration vs. Place of Residence
 - a. Establishing a spousal relationship for FMLA purposes now depends on the law of the place in which the marriage was entered into (“Place of Celebration”), as opposed to the state in which the employee resides (“Place of Residence”)
 - b. Place of celebration allows legally married couples, whether opposite-sex or same-sex, or married under common law, to have consistent federal family leave rights regardless of where they live. Unlike the previous place of residence rule, where establishing a spousal relationship depended on whether same sex marriage was recognize by the state in which the employee resided.
- 2) Definition of “spouse” expressly includes individuals in lawfully recognized same-sex and common law marriages and all marriages that were validly entered into outside the United States if they could have been entered into in at least one state.

What impact does this definitional change have on FMLA leave usage?

This definitional change means that eligible employees, regardless of where they live, will be able to

- a) take FMLA leave to care for their lawfully married same-sex spouse with a serious health condition,
- b) take qualifying exigency leave due to their lawfully married same-sex spouse’s covered military service, or
- c) take military caregiver leave for their lawfully married same-sex spouse.

This change entitles eligible employees to take FMLA leave to care for their stepchild (child of employee’s same-sex spouse) regardless of whether the *in loco parentis* requirement of providing day-to-day care or financial support for the child is met.

This change also entitles eligible employees to take FMLA leave to care for a stepparent who is a same-sex spouse of the employee’s parent, regardless of whether the stepparent ever stood *in loco parentis* to the employee

Impact to UAB FMLA Policy/Practices

None - Current [FMLA Policy](#), as of August 2013, covers Sponsored Adult Dependents and the children of Sponsored Adult Dependents ^[ANC1]

For Additional Information

UAB [FMLA Policy](#)

Department of Labor Fact Sheet: www.dol.gov/whd/fmla/spouse/factsheet.htm

Additional information on the FMLA: www.dol.gov/whd/fmla