

EXPERT UPDATE



EXPECT AN EXPERT

Same-sex marriages officially recognized under FMLA

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The Family and Medical Leave Act's (FMLA) definition of "spouse" has been altered to include same-sex marriages, according to a Final Rule released by the Department of Labor (DOL).

Effective March 27, 2015, spouse will be defined as the other person with whom an individual entered into marriage, including common law marriages.

The new definition recognizes legally valid marriages based on the law of the state or country where the marriage occurred, rather than the law of the state where the employee resides. This means that if a married same-sex couple is living and working in Louisiana (where same-sex marriage is banned), but was married in Pennsylvania (where same-sex marriage is legal), they will still be considered spouses under the FMLA, despite the fact that their marriage is otherwise not recognized by the state of Louisiana.

The Final Rule only requires states to provide unpaid FMLA leave to eligible employees based on the federal definition of spouse. It does not mandate that states recognize same-sex marriages or offer state benefits based on same-sex marriage.

Please note that the information contained in this document is designed to provide authoritative and accurate information in regard to the subject matter covered. However, it is not provided as legal or tax advice and no representation is made as to the sufficiency for your specific company's needs. This document should be reviewed by your legal counsel or tax consultant before use.

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