

Law of the Workplace

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CLIENT ALERT

Same-Sex Partners may be entitled to FMLA Leave

The U.S. Department of Labor issued an Administrator's Interpretation clarifying the definition of "son or daughter" under the FMLA as it pertains to employees "standing in 'in loco parentis' to a child." The interpretation would entitle employees with no legal or biological relationship to a child to take FMLA leave for the birth, adoption, or to care for a child with a serious health condition. Particularly, the DOL stated that "an employee who will share equally in the raising of an adopted child with a same sex partner, but who does not have a legal relationship with the child, would be entitled to leave."

The DOL also stated that the FMLA "does not restrict the number of parents a child may have." For instance, a child may have four parents for FMLA purposes if his/her biological parents never marry each other but are entered into domestic partnerships with other people. Further, an employee with no legal or biological relationship to a child need only provide, if requested by the employer, a "simple statement" asserting that an in loco parentis relationship exists to confirm the relationship.

Employers who have questions regarding FMLA leave or company policies covering FMLA leave are advised to contact the attorneys of Siegel, O'Connor, O'Donnell & Beck, P.C. at 860-727-8900 or by visiting us online at www.siegelconnor.com.

This material is intended to provide you with information regarding a noteworthy legal development. It should not be regarded as a substitute for legal advice concerning specific situations in your operation. If you have any questions or would like additional information on this topic, please contact our Firm at (860) 727-8900 or www.siegelconnor.com.



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