

Caveat To The FMLA Final Rule On Same-Sex Spouses: Not Yet

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Put an asterisk on my February blog entry that [“spouse means spouse” under the FMLA](#). In late March, a federal judge in Wichita Falls, Texas, issued a preliminary injunction against the Department of Labor - to keep it from enforcing its new and expanded definition of “spouse” after being challenged by the states of Texas, Arkansas, Louisiana and Nebraska. Those four states object to the Department of Labor’s revised definition of “spouse” to include same-sex spouses because they claim the agency’s new rule would require the states to violate their own laws. The federal court found, at least preliminarily, that the DOL had exceeded its authority and the four states had met their threshold to justify the preliminary injunction, pending a full determination on the merits. (See the Texas Court’s opinion [here](#).)

At a court hearing on April 10, 2015, to no one’s surprise, the Texas Judge denied the DOL’s request to dissolve the injunction. The DOL had advised the court that it will comply with the temporary injunction and will not attempt to enforce the FMLA final rule in Texas, Arkansas, Nebraska and Louisiana—but fully intends to enforce it in 46 other states. The legal battle will continue. This blog post updates one from February - [FMLA Final Rule: ‘Spouse’ Means Same-Sex Spouse \(Even in Alabama\)](#).

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