

## **Report of the FMLA Committee Madison Caucus for Gender Equality**

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### ***Committee Members:***

*Sarah Cheverton, Alysia Davis, Elizabeth Haworth, Thomas Lavenir*

### ***Charge to the Committee:***

To review JMU's FMLA policy and identify gender-related inequities.

### ***General Findings of the Committee:***

The Committee found no obvious direct gender bias in the policy.

However, the Committee finds the language "husband," "wife," "son," and "daughter" biased.

### ***Considerations:***

The Committee is uncertain how much agency JMU has within the state and federal law, but raises the following for consideration as indirect gender bias:

#### ***Marital Relationship:***

"Spouse" is defined as "husband or wife as recognized under the laws of the Commonwealth of Virginia for the purposes of marriage." This definition excludes partners or couples married in other states from FMLA benefits.

The way in which FMLA leave is shared between "husband and wife" when both work for the university establishes differentials. The Committee suggests that leave should not be proportioned based on relationship status.

If "husband" and "wife" both employed by JMU are required to share FMLA, how does the university view couples or partners? Does the definition of marriage allow partners to each take full FMLA benefits, creating an unintended reverse bias?

Does FMLA apply to a man and a woman with a shared biological child? If the couple is not married and both work for JMU, do they both have full FMLA benefit, again creating an unintended bias against married couples?

#### ***Employee Classification:***

Classified employees are required to exhaust their "accrued vacation, comp, or overtime leave" before they are eligible for intermittent FMLA. Although not directly gender related, the policy establishes a class differential. The policy also creates a potential gender inequity.

More women than men fill classified positions at JMU (754 females 484 males). Although classified salaries by sex are not reported by JMU, women, on average, make lower salaries than men.

Women are more likely to be caregivers (61 percent of 44 million caregivers), resulting in the lowest paid female employees having the weakest FMLA benefit.<sup>1</sup>

The JMU policy refers to faculty and staff, implying that all faculty are eligible for the same FMLA benefits. The Committee questioned whether the implication is accurate based on other differentials (VRS, for example) between A&P and instructional faculty.

*Other Questions:*

How are grant-funded positions treated under this policy when reinstatement may not be on the same timeframe as the funding cycle?

Slide 8 of the HR PowerPoint refers to "next of kin." This is the only use of the phrase in the JMU policy or the PowerPoint. The Committee found the meaning ambiguous and wondered if "next of kin" related to non-military qualifying events as well.

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<sup>1</sup> John E. Crews, et al. "Supportive Care Needs Of Americans: A Major Issue For Women As Both Recipients And Providers." *Journal Of Women's Health* (15409996) 16.6 (2007): 784-789. *Academic Search Complete*. Web. 20 Mar. 2013.