



Southern Connecticut
State University

POLICIES AND PROCEDURES

Subject: Civil Union / Same Sex Marriage Benefits

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Approved by: Maria M. Houser, Associate Vice President for Human Resources

Signature:

and Labor Relations

Policy

University benefits eligible employees may elect to include their same sex or opposite sex domestic partners on their health and/or dental plans.

The University will make reasonable efforts to maintain the confidentiality of any staff member who seeks these benefits consistent with the confidentiality of all benefits offered to all staff members.

Background

Connecticut's Civil Union statute, which took effect October 1, 2005, provides that parties to a civil union are entitled to all the same benefits under the law as married couples. Any benefit that is provided by state law, policy, or collective bargaining agreement is covered by this law.

Consistent with the recent Connecticut Supreme Court decision in Kerrigan v. Commissioner of Public Health, officially released on October 28, 2008, same-sex married partners now receive health care benefits under the University's marriage/spousal benefits offerings.

Connecticut's Same Sex Marriage law, which became law on November 13, 2008, provides that parties in a same sex marriage are entitled to all the same benefits under the law as married couples. Any benefit that is provided by state law, policy, or collective bargaining agreement is covered by this law.

On April 23, 2009 lawmakers of Connecticut agreed to repeal all the old marriage laws and fully replace them with genderless quotes and all references to marriage will be fully gender neutral. Governor Jodi Rell signed the law.

NOTE: Civil unions will not be provided from October 1, 2010. However civil unions before then will be kept and if the couples wish to "upgrade" to marriage they can do so. Same-sex marriages, civil unions and broad domestic partnerships from other jurisdictions will be recognized as marriages in Connecticut.

Eligibility Requirements

New Staff - The University will require that same-sex partners either be married or joined in a civil union in order to be eligible to enroll in the University's health care program. The University will recognize civil unions or marriages that are valid in other states. If a new employee moves to Connecticut with an existing same-sex partner and is not joined in a union or marriage recognized in another state prior to the new employee's hire date with the University, the University will extend benefits to the same-sex partner for a period not to exceed a 180 days in order to provide time for a civil union or marriage.

Existing same-sex couples - For those same-sex couples enrolled under a prior University health care program, coverage will continue under the terms of that program and no action is required. As with all qualifying events under our health care plan, if an employee currently does not have a same-sex spouse or partner covered under the University's health care plan and wishes to add a same-sex partner outside of the annual enrollment period, an employee may do so by attesting to the marriage or civil union within 30 days from the date of the marriage or union.

Civil Union / Marriage Status - Employees will be asked to submit a photocopy of their Civil Union or Marriage License. Employees whose document has been accepted by the Human Resources Office will be eligible for health care benefits.

Health Care Benefits - Employees will be allowed to cover their civil union partner or spouse and eligible dependent children. An employee who enters into a civil union or marriage will be accorded thirty (30) days to obtain medical and dental coverage for his or her civil partner or spouse and eligible children. An employee who enters into a civil union or marriage but fails to enroll his or her civil partner or spouse or eligible children, within thirty (30) days, will be required to wait until the annual health insurance open enrollment period to do so.

Dependent Coverage

The SCSU employee can cover their spousal equivalent's children:

- If they are unmarried dependent children of his/her spousal equivalent.
- The children reside regularly with the employee and their spousal equivalent.
- The children qualify as a "Dependent" of either the employee or spousal equivalent for tax purposes.
- The employee and domestic partner (spousal equivalent) are required to provide coverage for the children because of a court order.

Unmarried dependent children must meet the eligibility requirements for the particular benefit plan(s) requested with respect to their age and/or full-time student status

Tax Implications Regarding Health Care Benefits

Civil Union or Same Sex Marriage - The "employee's premium" to add the civil partner or spouse to the health care benefits will be treated on an after-tax basis for federal taxes and on a pre-taxed basis for state taxes.

The "State's premium" to cover the cost of the added civil partner or spouse to the health care benefits will be treated on a taxable basis for federal taxes and on a non-taxable basis for state taxes. (See state tax form CT-W4)

(Because same-sex marriages or civil unions are not recognized by the federal government, the spouse or partner benefits will continue to be subject to federal taxation. Under Connecticut state law, the spouse or partner benefits will not be taxed.)

COBRA Benefits (Consolidated Omnibus Budget Reconciliation Act)

Enrolled civil union partner or spouse and their dependent children will be deemed qualified beneficiaries under COBRA regulations and will be afforded the same benefits as eligible dependents in any civil marriage.

Pension Benefits (Applies only to employees in the State Employees Retirement System Plan)

Essentially two areas are impacted under the civil union or same sex marriage law. These areas are Pre-retirement Death Benefits and Spouse Waivers under the State Employees Retirement System (SERS).

- **Pre-retirement Death Benefits:** This is a feature of State Employees Retirement System. This provision is intended to protect the spouse of an active state employee who is deceased while otherwise eligible to retire, or having accrued twenty-five (25) years of service regardless of age.

Where an active employee becomes deceased under these circumstances, SERS presumes that such employee elected to retire on the day before his or her death and having elected an allowance which approximates a fifty (50) percent spouse option. Pre-retirement death benefits are further conditioned upon the employee and spouse having been married for at least one (1) year prior to such employee's death. As a result of the civil union and same sex marriage law, pre-retirement death benefits will now be extended to civil union partners and same sex marriage spouses.

- **Spouse Waivers:** Upon retirement, a SERS member who has been married for at least one (1) year must obtain a waiver from his or her spouse when the said member elects an allowance that does not guarantee lifetime pension income protection for such spouse. As a function of the civil union statute and same sex marriage law, a SERS member who has a civil union or a same sex marriage license for at least one (1) year prior to retirement will be required to obtain a waiver when electing an income option that does not afford lifetime protection to his or her civil partner or spouse. Where the requisite waiver is not obtained, the Retirement and Benefit Services Division will impose a fifty (50) percent option in favor of the civil partner or spouse.

Tuition Waiver Benefits

This applies to teaching faculty participating in American Association of University Professors union (AAUP), administrators participating in State University Organization of Administrative Faculty union (SUOAF-AFSCME), and Management & Confidential Professional Personnel.

Employees in a civil union or same sex marriage will be eligible for tuition waiver benefits for their eligible partner or spouse and dependent children. Please refer to the tuition waiver/course privilege section in your union contract for details on tuition waivers benefits.

Federal Family & Medical Leave Act (FMLA)

The Federal Family & Medical Leave Act of 1993 is a federal law allowing employees a leave of absence for different qualifying events without retribution of losing their job. To be eligible for such leave, you must have at least 12 months of total service and have worked at least 1,250 hours during that period. Under the civil union statute or same sex marriage law, FMLA benefits extend to the employee in events which apply to the employee and dependent children, but are **not** extended to qualifying events that involve the civil union partner or spouse.

(This is found under the Defense of Marriage Act which was signed into law on September 21, 1996. This law provides that the federal government may not treat same-sex relationships as marriages for any purpose, even if concluded or recognized by one of the states.)

State of Connecticut Family & Medical Leave Act

The Connecticut Family & Medical Leave Act (C.G.S. 5-248a) is a state benefit which applies to qualifying events for the employee, their dependent children and events which involve the civil union partner or spouse. It entitles employees to a leave of absence (paid/unpaid) for different qualifying events without retribution of losing their job.

To qualify for the Connecticut Family & Medical Leave Act employees must have permanent status with the State of Connecticut.

Qualifying Events:

1. the birth of employee's child or adoption of a child by the employee;
2. the "serious illness" of a child, spouse or parent;
3. the "serious illness" of the employee.

Under the Connecticut Family & Medical Leave Act, employees are entitled to a maximum of twenty-four (24) weeks of unpaid leave within a two year period. The state entitlement is applied after the employee has exhausted any sick leave accruals that may be applicable. The State's policy is to allow the substitution of personal leave and vacation accruals; however, this will not extend the 24-week entitlement period. Where possible, leave time granted under the Connecticut Family & Medical Leave Act will run concurrently with the federal FMLA entitlement.

Changes in Civil Union Status or Marriage Status

Where a civil union license or same sex marriage license has been filed with the Human Resources Office employees are required to provide notice of any change in their status to the Human Resources Office.

Employees seeking further information should contact the Human Resources Office.

AUTHORITY

- Attorney General's Opinion – From Attorney General Richard Blumenthal to Commissioner of Revenue Services Pam Law dated October 28, 2008. (Examines State v. Federal tax concerns)
- Attorney General's Opinion – From Attorney General Richard Blumenthal to Comptroller Nancy Wyman, dated October 28, 2008. (Civil unions vs. marriages)
- "Attorney General Releases Series of Legal Opinions Related To Same-Sex Marriage Ruling" October 28, 2008.
- Defense of Marriage Act (DOMA) 1996.

- COBRA - United States Department of Labor
- Family and Medical Leave Act - United States Department of Labor
- Connecticut Family & Medical Leave Act (C.G.S. 5-248a)
- Connecticut General Statute Section 46b – 38bb.

Exceptions

Any exception to the procedures in this Policy shall require prior written approval from the Associate Vice President of Human Resources and Labor Relations or designee.