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QUARTERLY

WINTER 1999

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Ann 02



HUMAN
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CAMPAIGN

November 1999

Dear Friend:

Enclosed is the latest edition of the *HRC Quarterly*, an update on our work to secure equality and fairness for lesbian and gay Americans. This publication reaches more than 250,000 fair-minded Americans across the country, and includes overviews of progress made on issues such as the Hate Crimes Prevention Act.

Also featured in the Winter 1999 issue is a feature on the unveiling of our new public service announcements with Judy Shepard, and a summary of "Mixed Blessings," a study of mainstream religions and gay and lesbian Americans released by the HRC Foundation. This issue also proudly announces our Equality Rocks concert featuring Melissa Etheridge, which will be held next spring in Washington, D.C.

Additionally, I have enclosed a copy of "Equal to the Task," a five-year plan for the Human Rights Campaign that lays out our top priorities for achieving gay and lesbian equality. I value our continuing partnership as we work to attain these goals together.

Please take a moment to review our *Quarterly*. We appreciate and applaud your continued support toward our common goals.

Sincerely,

Winnie Stachelberg
Political Director

WORKING FOR LESBIAN AND GAY EQUAL RIGHTS.

919 18th Street NW, Suite 800 Washington, D.C. 20006

phone (202) 628 4160 fax (202) 347 5323 e-mail hrc@hrc.org



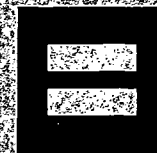
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Equal Task to the



HUMAN
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A Five-Year Plan
for the Human Rights Campaign, 1999 – 2004

HR 2859 IH

106th CONGRESS

1st Session

H. R. 2859

To provide benefits to domestic partners of Federal employees.

IN THE HOUSE OF REPRESENTATIVES

September 14, 1999

Mr. FRANK of Massachusetts (for himself, Mrs. LOWEY, and Mr. NADLER) introduced the following bill; which was referred to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide benefits to domestic partners of Federal employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Domestic Partnership Benefits and Obligations Act of 1999'.

SEC. 2. BENEFITS TO DOMESTIC PARTNERS OF FEDERAL EMPLOYEES.

(a) IN GENERAL- A domestic partner of an employee shall be entitled to benefits available to and obligations imposed upon a spouse of an employee.

(b) CERTIFICATION OF ELIGIBILITY- In order to obtain benefits under this Act, an employee shall file an affidavit of eligibility for benefits with the Office of Personnel Management certifying that the employee and the domestic partner of the employee--

- (1) are each other's sole domestic partner and intend to remain so indefinitely;
- (2) have a common residence, and intend to continue the arrangement;
- (3) are at least 18 years of age and mentally competent to consent to contract;
- (4) share responsibility for a significant measure of each other's common welfare and financial obligations;

(5) are not married to or domestic partners with anyone else;

(6) understand that willful falsification of information within the affidavit may lead to disciplinary action and the recovery of the cost of benefits received related to such falsification; and

(7)(A) are same sex domestic partners, and not related in a way that, if the 2 were of opposite sex, would prohibit legal marriage in the state in which they reside; or

(B) are opposite sex domestic partners, and are not related in a way that would prohibit legal marriage in the state in which they reside.

(c) DISSOLUTION OF PARTNERSHIP-

(1) IN GENERAL- An employee or domestic partner of an employee who obtains benefits under this Act shall file a statement of dissolution of the domestic partnership with the Office of Personnel Management not later than 30 days after the death of the employee or the domestic partner or the date of dissolution of the domestic partnership.

(2) DEATH OF EMPLOYEE- In a case in which an employee dies, the domestic partner of the employee at the time of death shall be deemed a spouse of the employee for the purpose of receiving benefits under this Act.

(3) OTHER DISSOLUTION OF PARTNERSHIP-

(A) IN GENERAL- In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, any benefits received by the domestic partner as a result of this Act shall terminate.

(B) EXCEPTION- In a case in which a domestic partnership dissolves by a method other than death of the employee or domestic partner of the employee, any health benefits received by the domestic partner as a result of this Act shall continue for a period of 60 days after the date of the dissolution of the partnership. The domestic partner shall pay for such benefits in the same manner that a former spouse would pay for such benefits under the Consolidated Omnibus Budget Reconciliation Act of 1985.

(d) CONFIDENTIALITY- Any information submitted to the Office of Personnel Management under subsection (b) shall be used solely for the purpose of certifying an individual's eligibility for benefits under subsection (a).

(e) DEFINITIONS- For purposes of this Act:

(1) DOMESTIC PARTNER- The term 'domestic partner' means an adult person living with, but not married to, another adult person in a committed, intimate relationship.

(2) BENEFITS- The term 'benefits' means--

(A) Civil Service Retirement, as provided in title 5, chapter 83, of the United States Code;

(B) Federal Employees' Retirement, as provided in title 5, chapter 84, of the United States Code;

(C) life insurance, as provided in title 5, chapter 87, of the United States Code;

(D) health insurance, as provided in title 5, chapter 89, of the United States Code; and

(E) compensation for work injuries, as provided in title 5, chapter 81, of the United States Code.

(3) EMPLOYEE-

(A) With respect to Civil Service Retirement, the term 'employee' shall have the meaning given such term in section 8331(1) of title 5, United States Code.

(B) With respect to Federal Employees' Retirement, the term 'employee' shall have the meaning given such term in section 8401(11) of title 5, United States Code.

(C) With respect to life insurance, the term 'employee' shall have the meaning given such term in section 8701(a) of title 5, United States Code.

(D) With respect to health insurance, the term 'employee' shall have the meaning given such term in section 8901 of title 5, United States Code.

(E) With respect to compensation for work injuries, the term 'employee' shall have the meaning given such term in section 8101(1) of title 5, United States Code.

(4) OBLIGATIONS- The term 'obligations' means any duties or responsibilities that would be incurred by the spouse of an employee.

SEC. 3. EXEMPTION FROM TAX FOR EMPLOYER-PROVIDED FRINGE BENEFITS TO DOMESTIC PARTNERS.

Section 106 of the Internal Revenue Code of 1986 (relating to contributions by employer to accident and health plans) is amended by adding at the end the following new subsection:

'(d) TREATMENT OF DOMESTIC PARTNERS- The provisions of section 2 of the Domestic Partnership Benefits and Obligations Act of 1999 shall apply to employees and domestic partners of employees for purposes of this section and any other benefit which is not includible in the gross income of employees by reason of an express provision of this chapter.'

END

*Cost - at \$ 70 million***Bill Summary & Status for the 106th Congress**

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H.R.2859SPONSOR: Rep Frank, Barney (introduced 09/14/99)

Jump to: Titles, Status, Committees, Amendments, Cosponsors, Summary

TITLE(S):

- **SHORT TITLE(S) AS INTRODUCED:**
Domestic Partnership Benefits and Obligations Act of 1999
 - **OFFICIAL TITLE AS INTRODUCED:**
A bill to provide benefits to domestic partners of Federal employees.
-

STATUS: Floor Actions***NONE***

STATUS: Detailed Legislative Status**House Actions****Sep 14, 99:**

Referred to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

Sep 27, 99:

Referred to the Subcommittee on Civil Service.

Sep 14, 99:

Referred to the Committee on Government Reform, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

STATUS: Congressional Record Page References***NONE***

COMMITTEE(S):

- **COMMITTEE(S) OF REFERRAL:**
House Government Reform
House Ways and Means
- **SUBCOMMITTEE(S):**

Hsc Civil Service

AMENDMENT(S):

NONE

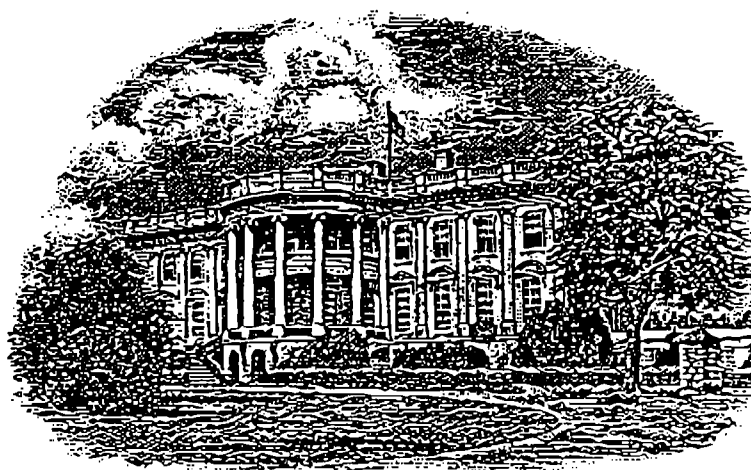
COSPONSORS(19):

<u>Rep Lowey, Nita M.</u> - 09/14/99	<u>Rep Nadler, Jerrold</u> - 09/14/99
<u>Rep Pelosi, Nancy</u> - 10/26/99	<u>Rep Meehan, Martin T.</u> - 10/26/99
<u>Rep Gejdenson, Sam</u> - 10/26/99	<u>Rep McDermott, Jim</u> - 10/26/99
<u>Rep Wynn, Albert Russell</u> - 11/02/99	<u>Rep Lewis, John</u> - 11/02/99
<u>Rep Olver, John W.</u> - 11/02/99	<u>Rep Berman, Howard L.</u> - 11/02/99
<u>Rep Capuano, Michael E.</u> - 11/02/99	<u>Rep Filner, Bob</u> - 11/02/99
<u>Rep Waxman, Henry A.</u> - 11/02/99	<u>Rep Schakowsky, Janice D.</u> - 11/04/99
<u>Rep Baldwin, Tammy</u> - 11/04/99	<u>Rep Weiner, Anthony D.</u> - 11/04/99
<u>Rep Brown, Sherrod</u> - 11/08/99	<u>Rep Lantos, Tom</u> - 11/08/99
<u>Rep Gutierrez, Luis V.</u> - 11/16/99	

SUMMARY:

NONE

The White House



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Nov 17 99 10:49a

Brook E. Hefright

202-986-5062

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**OFFICE OF THE DIRECTOR GENERAL (M/DGP)
PRESS GUIDANCE
NOVEMBER 16, 1999**

"GAYS, ENVOYS UNION LOBBY FOR EXPANDED BENEITS"

CONTEXT: In June 1999, M/DGP received a cable from Moscow requesting guidance on the visa status and benefits available to a same-sex partner of an embassy employee.

The Department's response to the cable stated that under current laws and regulations, the unmarried partners of Department employees may not be accorded the same visa status nor are they eligible for the same benefits as a legally recognized spouse or dependent.

In September 1999, the advocacy group, Gays and Lesbians in the Foreign Affairs Agencies (GLIFAA), presented the Department with a request to provide the same status and benefits to their partners as is provided to married heterosexual spouses. Currently, the Department does not have any published guidance related to unmarried partners (either sex) of Foreign Service employees. No formal response has been made to the request, which is still under management review.

A November 9, 1999 AFSA cable (which was transmitted via unclassified State Department channels) announced their intention to endorse thirteen measures proposed by GLIFAA designed to accord the same status, recognition and benefits

Nov 17 99 10:49a

Brook E. Hefright

202-986-5062

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to unmarried domestic partner as are provided to legally recognized spouses and dependents.

Question: What are the facts regarding the case involving the unmarried partner in Moscow as reported today's Washington Times?

-Answer: IN JUNE, EMBASSY MOSCOW REQUESTED GUIDANCE ON WHAT SERVICES AND SUPPORT COULD BE PROVIDED TO PARTNERS (SAME OR OPPOSITE SEX). FORMAL GUIDANCE WAS REQUESTED ON "WHAT SUPPORT AND STATUS THE MISSION MAY ACCORD PARTNERS. THE POST SPECIFICALLY REQUESTED GUIDNACE ON WHAT VISAS, PRIVILEGES AND IMMUNITIES MAY BE REQUESTED BY THE EMBASSY; PREFERENCE FOR LOCAL HIRING; ELIGIBILITY FOR OTHER SERVICES AND SUPPORT, SUCH AS ACCESS TO COMMISSARIES AND ISSUANCE OF IDENTIFICATION CARDS."

Nov 17 99 10:50a

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202-986-5062

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THE DEPARTMENT RESPONDED IN INFORMING THE POST THAT THERE CURRENTLY IS NO PUBLISHED GUIDANCE REGARDING THE SUPPORT FOR UNMARRIED PARTNERS (SAME OR OPPOSITE SEX). THE DEPARTMENT HAS NOT AUTHORIZED OFFICIAL ACTION ON BEHALF OF PARTNERS WHO DO NOT HAVE A LEGALLY RECOGNIZED RELATIONSHIP WITH AN U.S. FOREIGN SERVICE EMPLOYEE.

ADDITIONALLY, THE POST WAS ADVISED THAT THE DEFENSE OF MARRIAGE ACT OF 1996 GENERALLY CONSTRAINS THE DEPARTMENT FROM INTERPRETING THE WORD MARRIAGE OR SPOUSE IN DETERMINING THE MEANING OF ANY LAW, RULING OR REGULATION. THE ACT STATES THAT, "THE WORD MARRIAGE MEANS ONLY LEGAL UNIONS BETWEEN ONE MAN AND ONE WOMAN AS A HUSBAND AND WIFE. THE WORD SPOUSE REFERS ONLY TO A PERSON OF THE

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Brook E. Hefright

202-986-5062

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OPPOSITE SEX WHO IS A HUSBAND OR A WIFE"

THIS IN EFFECT PREVENTS THE PROVISION OF THE

SAME TYPE BENEFITS TO UNMARRIED PARTNERS

AS ARE AVAILABLE TO MARRIED COUPLES AND LEGAL

DEPENDENTS. POST WAS ADVISED TO TAKE NO ACTION

INCONSISTENT WITH APPLICABLE LAW, RULE OR

REGULATION INCLUDING LOCAL RUSSIAN VISA

REQUIREMENTS.

Question: What is the Department's official policy regarding unmarried partners of official career diplomats with regard to benefits, etc.?

Answer: CURRENTLY, THE DEPARTMENT DOES NOT

HAVE AN OFFICIAL POLICY REGARDING SERVICES,

SUPPORT, STATUS OR BENEFITS AS THEY RELATED

TO UNMARRIED PARTNER OF FOREIGN SERVICE

EMPLOYEES. HOWEVER, THE DEFENSE OF MARRIAGE ACT

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**GENERALLY CONSTRAINS THE DEPARTMENT FROM
CONSTRUING APPLICABLE STATUTES AND REGULATIONS TO
COVER UNMARRIED PARTNERS.**

Union at State battles for gays

Hornel partner's presence debated

By George Archibald
THE WASHINGTON TIMES

A move by the State Department's labor union to fight restrictions on unmarried partners of U.S. diplomats abroad followed concessions by homosexual Ambassador James C. Hornel not to flaunt his gay lifestyle in Luxembourg.

Efforts by the American Foreign Service Association (AFSA) and a group called Gays and Lesbians in Foreign Affairs Agencies to change the department's policies were initiated shortly after the meat-packing company heir promised the Senate that Timothy Wu, his homosexual partner, would not accompany him to the European country, government documents show. The groups want to give more equal status to unmarried partners of embassy officers.

The foreign service group told U.S. diplomatic personnel in a position paper cabled to all embassies earlier this month, with help from the State Department, "It is ... unreasonable to expect employees to leave behind their unmarried domestic partners."

Members of the Senate Foreign Relations Committee extracted detailed assurances before and after Mr. Hornel's recess appointment last June that the 66-year-old envoy and his 36-year-old male companion would not become a poster couple for American homosexual activists in the heavily Catholic country.

Asked what role Mr. Wu would have in the Ambassador's resi-



James C. Hornel is sworn in by Madeleine K. Albright on June 29. His partner, Timothy Wu, holds the Bible.

"It is ... unreasonable to expect employees to leave behind their unmarried domestic partners."

—American Foreign Service Association

dence or in the embassy, Mr. Hornel told Sen. Gordon H. Smith, chairman of the panel's subcommittee on European affairs: "None. Mr. Wu would continue to reside in California, where he has a career."

"In addition, I understand that, under State Department regulations, unmarried companions are not eligible family members for purposes of travel allowances or other benefits, and no official representational responsibilities are assigned to either a spouse or an unmarried companion," Mr. Hornel told the Oregon Republican in a four-page letter.

However, Mr. Wu held a Bible for Mr. Hornel during his swearing-in ceremony June 29 and, at first accompanied the ambassador to his embassy residence in Luxembourg.

He returned to Washington in July to become a White House fellow to Health and Human Services

Secretary Donna E. Shalala. Mr. Wu did not respond to inquiries.

According to Senate sources, Mr. Wu's high visibility as well as the president's recess appointment to circumvent Senate approval of Mr. Hornel prompted Sen. Jesse Helms, chairman of the Senate Foreign Relations Committee, to seek renewed assurances from Secretary of State Madeleine K. Albright that Mr. Wu would play no role at the U.S. Embassy in Luxembourg.

Mrs. Albright told the North Carolina Republican July 1, "Mr. Hornel's companion will be treated in the same manner as any unmarried companion" without eligibility for family benefits and no official representational duties with Mr. Hornel.

The secretary said Mr. Hornel also would be barred from activities promoting any homosexual political agenda in Luxembourg.

"The Clinton administration strict rules related to the political conduct of its ambassadors will hold Mr. Hornel to these standards," Mrs. Albright wrote.

Earlier this month, the AFSA collective bargaining agent, State Department employees adopted a 13-point proposal change to the department's policies drafted by Gays and Lesbians in Foreign Affairs Agencies (GLIFAA).

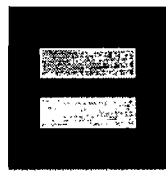
GLIFAA is a government employees group with members in departments of State, Agriculture and Commerce and in the F.C.C.

Marshall P. Adair, AFSA's president, said the union is "not seeking pragmatic ways" would have little or no cost to U.S. government in which stationed overseas can be accompanied by their domestic partners as they would be in the U.S.

Robert Knight, director of rural studies for the Family Research Council, said "valid" any sexual relationship or marriage undermines the importance of marriage and offers incentives to irresponsible sex.

WASH. TIMES - NOV. 18, 1999

Len Hirsch



**HUMAN
RIGHTS
CAMPAIGN**

**NEW EQUAL BENEFITS ORDINANCES IN SEATTLE, LOS ANGELES WILL
HELP ENSURE WORKPLACE FAIRNESS, SAYS HUMAN RIGHTS CAMPAIGN**

Cities Take Bold Steps Requiring Contractors To Offer Domestic Partner Benefits

FOR IMMEDIATE RELEASE

Tuesday, Nov. 23, 1999

WASHINGTON – Municipal governments are becoming leaders in the quest for basic workplace equality as two more cities have passed ordinances requiring contractors to offer equal health insurance benefits to the domestic partners of their workers, according to the Human Rights Campaign.

The Seattle City Council voted 9-0 Monday to pass an equal benefits bill, sponsored by City Councilwoman Tina Podlodowski. On Nov. 17, Los Angeles passed a similar measure, sponsored by Councilwoman Jackie Goldberg. Both bills were modeled after San Francisco's landmark Equal Benefits Ordinance, which has been in effect since 1997.

"Municipal governments have stepped up to demonstrate that they will not tolerate workplace discrimination - in their own workforces or by companies with which they do business," said HRC Education Director Kim I. Mills, who oversees WorkNet, HRC's workplace project. "It is gratifying to see local governments recognizing the importance of equal pay for equal work, which is what these ordinances are all about."

Mills testified in favor of the Seattle measure at two hearings there last month.

The Seattle ordinance applies to businesses entering a contract with the city after June 1, 2000, if the contract exceeds \$30,000. The ordinance would require only major contractors that already offer spousal benefits to extend the same benefits to the domestic partners of employees.

"Seattle law already prohibits discrimination based on sexual orientation and marital status," Podlodowski said. "This legislation, which will help to lead the charge for other cities to pass similar protections, simply puts our money where our mouth is. Seattle is saying that it is not only against the law to discriminate but that as a city, we will enforce our non-discrimination laws."

Podlodowski estimates that between 700 and 1,000 companies will be affected by the ordinance.

The Los Angeles measure would apply to companies with contracts valued at \$5,000 or more. Los Angeles officials have said the new domestic policy would affect only a small number of employees and have a cost of about \$2,100 per worker, based on a study of firms covered by the city's living wage law.

In 1996, San Francisco became the first city to pass a law requiring companies doing business with the city or county to provide the same benefits to workers with domestic partners as they give to married employees. Since the measure went into effect in 1997, more than 2,000 new employers have instituted domestic partner benefits to come into compliance with that law. According to HRC's WorkNet, almost 3,000 U.S. employers currently offer domestic partner insurance benefits, including more than 70 Fortune 500 companies. Some of the most successful and fastest-growing companies in the nation have taken this step, including Shell Oil, Walt Disney Company, IBM, Kodak and Microsoft. (A complete list of employers offering domestic partner benefits is available at <http://www.hrc.org/worknet>.)

The Human Rights Campaign is the largest national lesbian and gay political organization with members throughout the country. It effectively lobbies Congress, provides campaign support and educates the public to ensure that lesbian and gay Americans can be open, honest and safe at home, at work and in the community.

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Domestic Partnership Developments

Judge Overturns Georgia Insurance Commissioner's Ban on Domestic Partnership Benefits. A Fulton County judge ordered Georgia Insurance Commissioner John Oxendine to lift his self-imposed statewide ban on domestic partnership health insurance benefits. The judge condemned the commissioner's actions (including refusal to approve any insurance policy providing for domestic partners, even after the Georgia Supreme Court paved the way for such action), calling them unlawful, "outside the scope of his authority," and "an abuse of discretion." The court also adamantly rejected the commissioner's view that non-marital relationships are immoral. Commissioner Oxendine has declined to appeal the ruling, paving the way for both public and private entities to offer domestic partner coverage. The suit was brought by the City of Atlanta and Atlanta Councilmember (and former HRC staff member) Cathy Woolard, who sought benefits coverage for her domestic partner of 11 years. Lambda represented the council member. Robin Shahar (of *Shahar v. Bowers* fame) served as the City of Atlanta's attorney in the case. *City of Atlanta v. Oxendine*.

California Legislature Approves Domestic Partnership Registry. The California legislature established a domestic partnership registry that would authorize state employers to provide health and other employment benefits to domestic partners of state employees. The bill also includes an option for local governments to follow suit. The law would also require hospitals and similar facilities to extend visitation procedures to domestic partners and their families. The bill creates a formal registry with the Secretary of State and also provides a procedure for terminating such partnerships. The San Francisco Chronicle estimates that there are 35,000 same-sex couples in the state of California. The bill could face a challenge by statewide referendum.

Unmarried Connecticut Couples Challenge Town Pool's Discriminatory Family Membership Policy. The Connecticut Commission on Human Rights and Opportunities (CHRO) recently issued a reasonable cause finding in favor of five unmarried couples, gay and straight, who challenged West Hartford's policy denying them a preferential "family" membership rate at the town's pool. Each couple was told because they were not married, they could only join at the far more expensive individual rate. The CHRO found that the policy explicitly discriminated based on marital status by reserving the preferential rate for married couples only, and also discriminated against the three same-sex couples on the basis of sexual orientation. Attorneys from Gay and Lesbian Advocates and Defenders (GLAD) are working with New Haven attorney Maureen Murphy in representing the couples in the proceedings.

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*A*DDRESSING SEXUAL ORIENTATION DISCRIMINATION IN FEDERAL CIVILIAN EMPLOYMENT

*A Guide to
Employees'
Rights*



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Personnel
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November 18, 1999

[Union Urges U.S. Embassy Staffs To Push Benefits for Live-in Partners](#)
[Clinton's Church Celebrates Homosexuality](#) | [Quote](#) | [Bad Brew](#)
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Union Urges U.S. Embassy Staffs To Push Benefits for Live-in Partners

A U.S. Foreign Service union has joined forces with a "gay" advocacy group to demand full diplomatic benefits for unmarried live-in partners of U.S. embassy staff.

If the benefits are granted, it could violate the federal Defense of Marriage Act, which defines marriage as the union of one man and one woman for all federal purposes. At press time, Senate Foreign Relations Committee staff were "all over this thing," said one staffer. The committee is chaired by Jesse Helms (R-NC). The story also made the front page of *The Washington Times* on Tuesday.

"It is only too ironic that a few months after President Clinton appointed James Hormel as the first open homosexual to be granted an ambassador's post, that the State Department is now planning to redefine the traditional definition of the family," said a Traditional Values Coalition spokesman, anticipating a department cave-in.

The proposal by the American Foreign Service Association (AFSA) was apparently prompted by the department's refusal to grant visa assistance and other benefits to a Polish national who is the sex partner of an embassy official in Russia. The official wanted the State Department to send an official diplomatic request to Russia to recognize the partner as "domestic staff," according to George Archibald's report in the *Times*.

A Foreign Service officer faxed Family Research Council a copy of a cable sent to all embassies soliciting their comments on the policy change by Nov. 20. After that, the AFSA will approach the State Department with the demand.

According to the *Times*, a Sept. 21 department cable refusing the request told Ambassador James F. Collins in Moscow: "As background, post is advised that the Defense of Marriage Act of 1996 generally constrains the department from interpreting the word 'marriage' or 'spouse' to include same-sex partners." The Vienna Convention on Diplomatic Relations restricts diplomatic immunity to "members of the diplomat's family forming part of the household," the cable stated.

Gays and Lesbians in Foreign Affairs Agencies, which sent a letter on Sept. 23 to the AFSA proposing the policy, says current policy violates the Clinton executive order mandating non-discrimination in federal agencies on the basis of sexual orientation.

On Nov. 3, the AFSA governing board endorsed 13 proposed changes, including granting access to medical facilities, discount commissaries and duty-free shops, discount airfares, inclusion in telephone and address listings that routinely include spouses, and official invitations to events at which spouses are invited.

Qualifying partners would have to be at least 18, and “each other’s sole domestic partner for at least six months and intend to remain so indefinitely,” as well as share “common welfare and financial obligations.”

— *RHK*

Clinton’s Church Celebrates Homosexuality

Foundry United Methodist Church, home church of Bill and Hillary Clinton, hosted a conference on Nov. 11 to “celebrate and affirm gay, lesbian, bisexual, and transgender persons.” The conference, dubbed “*Sharing Our Rainbow of Light*,” was sponsored by Parents, Families and Friends of Lesbians and Gays.

Rev. Dr. Alvin O. Jackson, senior minister of National City Christian Church (Disciples of Christ) in Washington, D.C., gave the keynote address. Rev. Jackson proclaimed that a congregation “should be open and accepting of all church members — including gays.” He told the conference attendees “not to repent of your uniqueness ... be what you are ... don’t hide your feelings. Ask [God] for strength from frustration in love. The hardest part of love is waiting; let love be free.”

A workshop entitled *The Bible and Homosexuality* was led by five clergy/theologians representing several Christian denominations and Judaism. Dr. J. Phillip Wogaman, Pastor of Foundry UM Church and Professor of Christian Ethics at Wesley Theological Seminary, hosted a discussion that attempted to affirm homosexual behavior in the light of unequivocal Biblical condemnation.

Rev. George Booth of the United Church of Christ lamented how Scripture has been used selectively to support racial prejudice, anti-Semitism, exploitation of women, male chauvinism, and “homophobia.” Today, “we have had an increase in the knowledge of human behavior. ... In the UCC we have a number of openly gay and lesbian ministers.”

Rabbi Robert Saks opined that, “The sin of Sodom was inhospitality, but certain Genesis texts do imply that God designed a male/female relationship ... Leviticus 18:23 and 20:13 appear to clearly condemn homosexual acts.” He suggested, however, that the patriarchs did not have a complete picture of sexuality.

The rabbi explained that homosexual acts were not Biblically condemned as a perversion, but rather for “spilling of the seed” in a culture that coveted population growth. He said “the Bible only knows or understands of homosexual acts, not sexual orientation ... although the Bible describes the act as an ‘abomination,’ it’s really not the right word; it’s better translated as ‘degrading’ ... a matter of dignity. So the issue is really a matter of ethics or ‘taste.’ We don’t have to agree [concerning matters of taste] — it is not a matter of Biblical condemnation.”

Rev. Michael Moore, a lesbian, said the writings of the Apostle Paul were “written to a specific people, at a specific time, for a specific reason. Paul was not writing to homosexuals in 1999.”

Rev. Wogaman said, “The Biblical issues are still a struggle and there isn’t closure on the scientific issues ... but what is the real, deep meaning of the Biblical message?” Referencing Romans chapter 1, he reasoned that “idolatry took hold and they substituted sheer pleasures for God.” He believes Paul was not talking about “loving” homosexual relationships.

The afternoon plenary session, *Building Coalitions*, featured Virginia Ramey Mollenkott, author, educator and professor of English at William Patterson College. She was introduced with her lesbian partner.

Mollenkott’s views were pantheistic. She claimed that God, the *mother*, was in everything. “We must

Federal GLOBE

Gay, Lesbian, Bisexual Employees of the Federal Government

CHECKLIST FOR IMPLEMENTING EXECUTIVE ORDER 13087 ISSUED MAY 28TH 1998

Agencies should undertake a comprehensive review of current agency policies to ensure compliance with the language and intent of the May 28 Executive Order. Many of these items should be incorporated in performance plans as elements for evaluation.

Policy Articulation

Administrative Redress Procedures

Union/Negotiated Redress Procedures

Training

Diversity Programs

Hiring and Outreach

Benefits

Policy Articulation:

1. Issue Non-discrimination policy statement prohibiting discrimination on the basis of sexual orientation. (Performance plan of agency and unit/bureau/division/etc heads.)
Models: Department of Transportation and US Coast Guard (Appendix 2)
2. Disseminate strong, clear, public statements on a regular basis that state the agency's commitment to ending discrimination, its conviction that violence and harassment are entirely unacceptable, and its appreciation of the value of diversity, including diversity of sexual orientation and gender identity.
3. Include sexual orientation in all Agency policies and statement which address non-discrimination and workplace behavior.¹ Use the following language: *This agency does not discriminate based on race, color, religion, sex, sexual orientation, national origin, marital status, age, political affiliation, or disability.*

Administrative Redress Procedures:

4. Establish internal agency redress procedure and processes for the use by civilian employees to address complaints of discrimination and harassment based on sexual orientation.²
Models: Department of Interior (Appendix 3)
5. Develop and promulgate clear and understandable guidance for employees. These should be widely disseminated and discussed. They should be periodically reissued. They should be

¹In addition to the obvious Non-Discrimination, Civil Rights, and EEO statements, policies and statements on such things as merit promotion plans, reduction-in-force, and performance appraisal instructions are appropriate.

²The procedures now offered by the Department of Justice should be regarded as the minimum required -- a floor but not a ceiling. Agencies should model their procedures on those of the Justice Department, with an examination on how they can enhance and augment the services provided and the redress mechanisms.

available on agency intrawebs.

Model: Department of Commerce booklet: *Sexual Orientation Discrimination: Questions and Answers*. (Appendix 4)

6. Include sexual orientation as part of protected categories in the employee's right to file an EEO complaint in proposed adverse actions. Use the following language: *You also have the right to file an Equal Employment Opportunity (EEO) complaint within the Department (Agency) in accordance with (Policy Directive), if you believe this action is based on prohibited discrimination because of your race, color, religion, sex, sexual orientation, national origin, marital status, age, political affiliation, or disability. To do so you must first contact an EEO counselor within forty-five (45) calendar days of the effective date of this (identify action).*
7. Include a separate paragraph in all adverse/disciplinary actions advising employees of their right to file a prohibited personnel practice complaint to the Office of Special Counsel. Use the following language: *If you are not covered by a negotiated grievance procedure, you also have the right to file a Prohibited Personnel Practice (PPP) Complaint to the Office of the Special Counsel (OSC) if you feel that this action has been taken due to a non-merit reason, such as your sexual orientation. Employees who are covered by collective bargaining agreements who allege a PPP must choose either an MSPB appeal under 5 U.S.C. 7701, a grievance, or an OSC complaint.*

Union/Negotiated Redress Procedures:

8. Review all negotiated bargaining agreements for inclusion of non-discrimination policy and redress procedures for discrimination and harassment based on sexual orientation.
9. Make as non-negotiable, the inclusion of non-discrimination policy and redress procedures for discrimination and harassment based on sexual orientation in all future bargaining unit negotiations.³ This presents an opportunity to partner with and work closely with union organizations in your agency.
10. Encourage labor and professional organizations to adopt inclusive policies and supportive services available to their members.

Training:

11. All EEO personnel as well as HR professionals, EAP staff, managers and union stewards should have training on issues surrounding sexual orientation in the workforce. This includes homophobia/heterosexism workshops, conflict resolution and sensitivity seminars to identify specific GLBT concerns to increase knowledge, awareness and sensitivity to sexuality, sexual and gender orientation/identity, and "coming out" issues. Speakers on these topics should be invited to the agency, mainstreamed into all diversity events, and invited to participate at EEO events and conferences. You can contact for Federal GLOBE for speakers on these topics. Additionally, relevant personnel should receive training on physical and mental health issues of specific relevance to GLBT employees. Materials from the American Psychological Association and other groups provide excellent examples.
12. Ensure that all EEO and like training materials used by agency trainers and contractors are

³All of the national unions (including AFGE, AFSME, NTEU, NFFE) have strongly endorsed the inclusion of sexual orientation non-discrimination. Agencies have, in the past, used this as a chip to be bargained away to get other issues. It should now be non-negotiable.

consistent with policy and highlight this policy and that all training include modules on sexual orientation when appropriate.

13. Provide ongoing sensitivity training and employee development on GLBT issues for all employees. Federal GLOBE has developed a workshop to educate employees concerning sexual orientation and related workplace issues. For further information about the Federal GLOBE sexual orientation workshop, please contact Rob Sadler (202 543-9583).
14. Due to the lack of information and sensitivity to the range of issues involving sexual orientation in the workplace, department and agency heads should lead by taking sensitivity training and should consider establish a mechanism to ensure continued constructive dialog and development in making their workplace a model for the government.

Diversity Programs:

15. Establish formal diversity programs (actively include HR, labor organizations, EAP, employee resource groups, and other appropriate organs) based on successful corporate models (e.g. AT&T, Xerox, Apple). There are now several successful diversity programs in the Executive Branch, such as at the Postal Service and at NOAA. These programs should develop resources and programs on sexual orientation in the workplace and in society.
16. Create a "diversity" library and make available diversity information and training materials to all employees. GLBT employee organizations should consider developing an archive of information on GLBT workplace issues available to Department and agency offices and to employees.

Hiring and Outreach:

17. Enact procedures of active outreach in hiring openly GLBT and/or GLBT-sensitive managers and employees throughout your agency through advertising in GLBT media, the development of links with major GLBT organizations and the selection of GLBT-friendly recruitment services.
18. Include policies regarding nondiscrimination in all recruitment brochures and announcements, agency publications, and new-employee orientation materials. Use the following language: *All candidates (employees) will receive consideration without regard to any non-merit factor such as race, color, religion, sex, sexual orientation, national origin, marital status, age, political affiliation, or disability.*
19. Ensure that all of the above policies and procedures are in writing, and are clear, consistent, accessible, and well-publicized throughout the agency.
20. Ensure that, when engaging in joint projects, outreach and procurement activities, partners have policies consistent with government non-discrimination policy.
21. Include the creation of a workplace free from sexual orientation harassment and discrimination in Supervisory critical Job Elements. Use the following language: *Enforces a non-discriminatory environment by communicating and reinforcing policies of work-force diversity and equal employment opportunity. Takes action in a timely fashion against inappropriate or offensive acts, materials, remarks, etc.*
22. Hire openly GLBT and GLBT-sensitive therapists/counselors (EAP/EEO), employees, and administrators.

Benefits:

23. Ensure equal access and equality of all benefits and privileges granted to employees, *inter alia*, relocation benefits, access to facilities and services, domestic partner visas, bereavement leave, insurance coverage, access to Government resources (e.g., meeting space, electronic bulletin boards, the agency website, administrative leave), equality of treatment for GLBT couples wherever possible.⁴
24. Agencies should change recruitment, hiring, promotion, career development, and incentive awards programs to eliminate bias and discrimination based on sexual orientation.
25. Support GLBT employee resource and networking groups. If the agency offers official recognition to any special emphasis groups, ensure that agency GLOBE groups receive the same recognition and standing.
26. Cover the expenses of employees attending appropriate training and awareness conferences on GLBT workplace or agency-relevant substantive issues.⁵
27. Make available career development and mentoring programs inclusive of GLBT employees and advertise such programs throughout the agency.
28. Provide official recognition, support, and funding of GLBT employee organizations and events, such as pride events during the month of June; Ensure physically safe, secure, and appropriate space with a welcoming, safe environment for GLBT employee organizations for meetings, social events, lectures, workshops, and other activities.
29. Include the location and availability of resources of value to GLBT employees is included in agency published materials distributed to employees.
30. Designate an official ombudsperson or other clearly recognized, identified, and publicized official liaison to the GLBT employee community.
31. Consider, in creating internship opportunities, outreach among GLBT-owned businesses and GLBT activist and community service organizations.
32. Ensure that department and agency publications include and provide adequate and fair coverage of GLBT employee organization issues and activities.

⁴ *Be creative!*

⁵ Federal GLOBE holds a yearly training workshop in conjunction with the National Gay and Lesbian Task Force Creating Change Conference.

Implementation of Executive Order 13087

Interior	Secretariat	National Park	Fish & Wildlife	BIA	BLM	Surface Mining	MMS	USGS	Reclamation
Policy Articulation									
NDS Issued									
Regular inclusion									
SO in all appropriate output									
Administrative Redress Procedures									
Internal procedures established									
Guidance for employees									
Protected categories inclusion									
PPP language									
Union/Negotiated Redress Procedures									
Review contracts									
Include in new negotiations									
Encourage labor and professional inclusive policies									
Training									
SO in the workplace training									
Training materials consistent with policy									
Ongoing training process									
Sensitivity training for managers									

Diversity Programs

Establish inclusive diversity program										
Diversity library inclusive of LGBT										
Hiring and Outreach										
Recruit via LGBT channels										
NDS in all recruitment statements										
Publicize procedures										
Encourage partners to have NDS										
Include in Supervisory Job Elements										
Hire open EEO/EAP and administrators										
Benefits										
Equalize benefits										
Eliminate bias										
Support LGBT groups										
Support LGBT training and conferences										
Mentoring programs										
Commemorative inclusion										
Advertise resources										
Outreach to LGBT private sector										
Inclusion in publications										

Benefits

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FEDERAL CIVILIAN BENEFITS, RIGHTS, AND PRIVILEGES¹

Over 270 of the 1049 provisions in the 13 categories of federal laws identified by the GAO Report (see footnote 1 below) fall into this category, which includes laws dealing with current and retired federal officers and employees, members of the Armed Forces, elected officials, and judges, in which marital status is a factor. Typically these laws address the various health, leave, retirement, survivor, and insurance benefits provided by the United States to those in federal service and their families. Those provisions addressing the benefits, rights, and privileges accompanying active military duty have not been included in this chart.

PROGRAMS	RELEVANCE OF "MARITAL STATUS"	U.S.Code, CFR, Fed. Reg., and other sources
Travel and Transportation Expenses: Relocation expenses	Statute provides that the Federal Government shall pay the relocation costs and moving expenses for a federal employee and her or his immediate family when the federal employee is transferred by the Government from one "official state or agency to another for permanent duty." §5724(a). Section 5724 also provides for payment of travel and moving costs of an individual and her or his family upon her or his separation from service (or in the case of the death in service of a career appointee (defined in §3132(a)(4)) the transportation expenses of the immediate family of such individual) to the place where the family will reside in the United States. §5724(a)(3). "Immediate family" is defined as spouse, children (unmarried and under 21 years of age or who, regardless of age, are physically or mentally incapable of self-support), parents of the federal employee or employee's spouse, and dependent brothers and sisters (meeting the same conditions as "children"). 41 CFR 300-3.1.	5 USC 5724 (Travel and transportation expenses...), 5 USC 5724a (Relocation expenses...), 5 USC 5738 (Regulations), and 41 CFR 300-3.1 (Definition of "immediate family"). <u>Decisions of the Comptroller General defining "family member":</u> 1982 U.S. Comp. Gen. LEXIS 1491 (grandchild, not a legal dependent), 1986 U.S. Comp. Gen. LEXIS 1504 (mother, nursing home), and 1996 U.S. Comp. Gen. LEXIS 209 (child of divorced employee).
Overseas Differentials and Allowances -- Cost-of-living allowances	Statute provides for cost-of-living allowances, transfer allowances for subsistence and relocation expenses, a separate maintenance allowance for a federal employee who for various reasons (hazardous or unhealthy conditions of post, or for Government convenience) maintains her or his spouse and dependents at a location other than	5 USC 5924 (Cost-of-living allowances). <u>Additional guidance (for USAID contracts):</u> 48 CFR 752.7028 (Differential and allowances; contract language stating that contractors will be reimbursed for payments made to employees and authorized dependents for allowances described in

¹ Identified by the General Accounting Office in response to a request by Congressman Henry Hyde (letter and enclosures from Barry R. Bedrick, Associate General Counsel, Office of the General Counsel, General Accounting Office, January 31, 1997). The GAO identified thirteen categories of federal laws in marital status is a factor: (1) Social Security and Related Programs, housing and Food Stamps; (2) Veterans' Benefits; (3) Taxation; (4) Federal Civilian and Military Benefits (which serves as the basis for this chart); (5) Employment Benefits and Related Laws; (6) Immigrations, Naturalization, and Aliens; (7) Indians; (8) Trade, Commerce, and Intellectual Property; (9) Financial Disclosure and Conflict of Interest; (10) Crimes and Family Violence; (11) Loans, Guarantees, and Payments in Agriculture; (12) Federal Natural Resources and Related Laws; and (13) Miscellaneous Laws. (GAO/OGC-97-16, Defense of Marriage Act, Letter and Enclosures).

	employee's post, and an education allowance of payment of travel costs necessary to secure an adequate education for employee's dependents. §5924 uses "spouse" and "dependent(s)" without definition. <i>See</i> 1 USC §7 ("DOMA").	§5924), and 48 CFR Chapter 7, Appendix D (authority, policy and procedures for USAID contracting practices)
Federal Employees Family Friendly Leave Act	Enacted as Public Law 103-388 on Oct. 22, 1994, 5 USC 6307(e) allowed federal employees to use up to 13 days of their accrued sick leave to care for a "family member." The statute deferred to OPM to define "family member." §6307(e)(1). OPM defined "family member" as including an [employee's] children, parents, spouse and spouse's parents, brothers and sisters and "spouses thereof," and "any individual related by blood or affinity whose close association with the employee is the equivalent of a family relationship." 5 CFR 630.201(b)(5)(emphasis added). Pursuant to §6307(e)(4)(A), the statute's authorization expired on Dec. 21, 1997. However, OPM has continued the authority for this policy by administrative memorandum (<i>Memorandum for Directors of Personnel, Use of Sick Leave for Family Care or Bereavement Purposes</i> , Dec. 5, 1997).	5 USC 6307[e](d) (Sick leave; accrual and accumulation) <u>Explanatory note from USCS:</u> "The bracketed subsection designation (e) was inserted to indicate the probable intent of Congress to designate such subsection as (e) inasmuch as the section already contained a subsection (d) after the redesignations enacted by [the] Act." 5 CFR 630.201 (Definitions & general provisions for sick leave) 5 CFR 630.401 (Grant of sick leave) 59 Fed. Reg. 62,266 (Dec. 2, 1994) (Absence and Leave: Sick Leave, Final Rule) 37 Op. Atty Gen. 17 (President does not have the authority to issue an Executive Order granting sick leave to all federal employees) (July 28, 1932), <i>Use of Sick Leave by Federal Employees to Care For Sick Family Members</i> , Congressional Research Service (July 19, 1999), Federal Employees Family Friendly Leave Act, Pub. L. 103-388, <i>Sick Leave To Care For A Family Member</i> , OPM Fact Sheet, (www.opm.gov/oca/leave/HTML/SICKLVFM.HTM)
Family and Medical Leave	Statute provides up to 12 weeks of unpaid leave to care for "parent, spouse, or child" with a serious health condition. Parent, spouse and "son or daughter" are defined at 5 CFR 630.1202 and 29 CFR 825.800 (1999). During promulgation of regulations, OPM was asked to adopt a broad definition of "family" and "spouse" and declined citing Congressional intent and DOMA. 61 Fed. Reg. 64,441 (codified at 5 CFR §630 subpart L).	5 USC 6382 et seq., (Family and Medical Leave) 61 Fed. Reg. 64,441 (1999) (Final Rule, Dec. 5, 1996), 5 CFR 630, subpart L (Family and Medical Leave), 5 CFR 630.1202 (Definitions), and 29 CFR 825.800 (Definitions).
Compensation for Work Injuries		5 USC 8101 et seq.
• <i>Compensation for disability or death of employee</i>	These sections provide for compensation for the disability or death of any employee resulting from injury sustained in the performance of her or his duties (exceptions for willful misconduct by employee, intentional injury, or in cases where injury is the proximate result of intoxication on the part of employee). Section 8109 establishes the order of precedence of beneficiaries where disability compensation is unpaid at time of employee's death in the following order: if no child,	5 USC 8101 (Definitions), 5 USC 8102 (Compensation for disability or death of employee), 5 USC 8109 (Beneficiaries of awards unpaid at death; order of precedence), and 5 USC 8133 (Compensation in case of death).

	to the widow or widower; if there are children, then half to child or children and half to widow or widower; if there is no widow or widower, to the children or in the case of no children, to the employee's parent or parent wholly or partly dependent for support on the decedent, or to other wholly dependent relatives (<i>see</i> 5 USC 8133(a)(5) for listing). "Widow" and "widower" are defined as wife and husband "living with or dependent for support on the decedent at the time of his or her death." 5 USC §8101(6)("widow") and (11)("widower").	
• <i>Compensation in case of death</i>	Section 8133 provides for compensation (precedence and percentages) in those cases where death results from an injury received in an employee's performance of duty. In the case of no child, the widow or widower receives 50% of the employee's monthly pay until the widow or widower dies or remarries before reaching age 55; in the case of surviving spouse and child or children, 45% to the surviving spouse and 15% for each additional child (not to exceed 75% total); where there is no surviving spouse, 40% for one child and 15% for each additional child, divided equally (not to exceed 75% total) until the child dies, marries, or reaches 18 years of age. In the case of no surviving spouse or child(ren), this section provides compensation for the employee's parents, brothers, sisters, Grandparents and grandchildren, in that order. For definition of "widow" and "widower," see §8101(6) and (11).	5 USC 8101 (Definitions), and 5 USC 8133 (Compensation in case of death).
• <i>Lump-Sum Payment</i>	Section 8135 provides for a lump-sum payment of compensation to a beneficiary in the case of death or of permanent total or permanent partial disability. A lump-sum payment to the widow or widower of the employee may not exceed 60 months compensation. On remarriage before age 55, the widow or widower entitled to compensation under §8133 shall be paid a lump sum equal to 24 months compensation. . For definition of "widow" and "widower," see §8101(6) and (11).	5 USC 8101 (Definitions), 5 USC 8133 (Compensation in case of death), and 5 USC 8135 (Lump-sum payment).
Civil Service Retirement System (CSRS)	This chapter governs the civil service retirement system -- covering all eligible civil service employees, as well as employees of the Architect of the Capitol, congressional employees (as long the employee gives notice in writing to her or his employer expressing the intention to be covered by this retirement program (§8331(1)(C)), and smaller groups of employees. §8331(1)(D)-(L).	5 USC 8331 et seq. 5 USC 8331 (Definitions) 5 USC 2105 (cited in §8331(1)(A)) (definition of "employee" includes "an employee defined by section 2105 of this Title" (definition of civil service employee)).

• <i>Basic Retirement Annuity</i>	The Civil Service Retirement System provides for the deduction of a percentage of the pay of eligible federal employees which is then matched by the employer pursuant to a computation table in section 8334. In the case of a federal employee who is married at the time of her or his retirement, the employee's basic retirement annuity is reduced to provide for a survivor annuity. §8339. In addition, a survivor annuity may be required for a former spouse. §8339(j). A spouse may waive the right to a survivor annuity by filing a waiver with OPM. §8339(j)(1). The retiring employee may waive the survivor annuity without the consent of the spouse if the employee can establish to the satisfaction of OPM that (a) the spouse's whereabouts cannot be determined, or (b) due to exceptional circumstances, requiring the employee to seek the spouse's consent would otherwise be inappropriate." §8339(j)(2). For payment of lump-sum payments, see §8342 below (Survivor Annuities; also describes the order of preference for beneficiaries). For the purpose of survivor annuities, deposits authorized in §8334 may also be made by the survivor of an employee. At the time of retirement, an employee in good health may elect a reduced annuity and name another individual (in writing) to receive a survivor annuity under §8341(c) upon the death of the employee. §8339(k)(1). Neither §8339 nor §8341 appear to require that the individual be a spouse or blood relative. In the case of a married employee, an election under this subsection in favor of the employee's spouse may be made only if the right of such spouse to an existing survivor annuity under the CSRS is waived. Section 8345(j) provides for payment of benefits to someone other than the employee or an annuitant to the extent expressly provided for in any court decree or order incident to the divorce, annulment or legal separation of the employee, or any court order in the nature of garnishment for the enforcement of a judgment against the employee for "physically, sexually, or emotionally abusing a child." §8345(j)(1).	5 USC 8333 (Eligibility for annuity), 5 USC 8334 (Deductions, contributions, and deposits), 5 USC 8336 (Immediate retirement), 5 USC 8337 (Disability retirement), 5 USC 8338 (Deferred retirement), 5 USC 8339 (Computation of annuity), 5 USC 8340 (Cost-of-living adjustment of annuities), 5 USC 8342 (Lump-sum benefits; designation of beneficiary; order of precedence), 5 USC 8345 (Payment of benefits...), and 5 USC 8347 (Administration; regulations).
• <i>Disability Retirement</i>	Individuals entitled to an annuity on the basis of disability are not entitled to receive <i>both</i> an annuity under this subsection <i>and</i> compensation for injury or disability under 5 USC §8101 et seq. (<i>see above</i>). §8337(f). In addition, individuals receiving an annuity under this subsection, including survivors, <i>and</i> receiving a lump-sum	5 USC 8135 (Lump-sum payment), 5 USC 8331 (Definitions), and 5 USC 8337 (Disability retirement).

	payment under 5 USC §8135 (<i>see above</i>) must reconcile the two benefits and may be required to refund certain amounts or authorize that these amounts be deducted from the annuity. §8337(g). "Survivor" is defined as "an individual entitled to annuity under this subchapter (5 USC §8331 et seq.). §8331(10).	
• <i>Survivor Annuities</i>	These sections determine the rights of current or former spouses, as well as dependents, to a civil service retirement annuity after the death of the employee, and include definitions for "widow" and "widower" as the "surviving wife or husband" of the employee. §8341(a)(1) and (2). Section 8342 establishes the order of precedence for beneficiaries of lump-sum payments (voiding rights to an annuity): first, to "the beneficiary or beneficiaries designated by the employee or Member in a signed and witnessed writing received in the Office [OPM] before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document <i>not so executed and filed</i> has no force or effect (emphasis added)...Second, if there is no designated beneficiary, to the widow or widower of the employee or Member...Third, to child or children...Fourth, to the parents...Fifth, to the duly appointed executor or administrator of the estate...Sixth, to such other next of kin of the employee...as the Office determines to be entitled under the laws of the domicile of the employee..." §8342(c). <i>See</i> 5 CFR 831.603 for the definition of "current spouse" ("...a living person who is married to the employee...at the time of the employee's death"). In addition, 5 CFR part 838, Appendix A to Subpart I provides recommended language for court orders awarding former spouse survivor annuities under §8341(h).	5 USC 8341 (Survivor annuities), 5 USC 8342 (Lump-sum benefits; designation of beneficiary; order of precedence), 5 CFR 831.603 (Civil Service; Retirement; Survivor Annuities; Definitions), and 5 CFR part 838, Appendix A to subpart I (Recommended language for court orders awarding former spouse survivor annuities).
• <i>Alternative Forms of Annuities</i>	An employee who has a "life-threatening affliction or other critical medical condition" may elect annuity benefits under this subsection instead of any other benefits under this retirement system. In the case of an employee who is married at the time of retirement, this benefit might be the payment of a lump-sum credit to the employee and payment of an annuity to the employee for life with a survivor annuity for the life of the surviving spouse. §8343a(b)(2). Section 8343a(d) provides protections for current spouse and former spouse entitled to benefits and/or survivor annuities under this retirement system.	5 USC 8343a (Alternative forms of annuities)
• <i>Thrift Savings Plan</i>	An employee may elect to contribute to the Thrift Savings Plan	5 USC 8351 (Participation in the Thrift Savings Plan)

	established under §8437 (<i>see below</i>). The provisions of §8435 that require a waiver or consent by an employee's spouse shall not apply to sums in the Thrift Savings Fund contributed by the employee or earnings in the fund attributable to such sums. §8351(b)(5)(A). An election or change of election authorized under 5 USC §§8431 et seq. shall not be effective until the Executive Director of the Federal Retirement Thrift Investment Board notifies the employee's spouse that the election or change of election has been made or that the Executive Director has received an application for such loan or withdrawal. §8351(b)(5)(B). This spousal protection may be waived if the employee can demonstrate that the whereabouts of the employee's spouse cannot be determined, to the satisfaction of the Executive Director. §8351(b)(5)(C).	5 USC 8435 (Protections for spouses and former spouses), and 5 USC 8437 (Thrift Savings Fund).
Federal Employees' Retirement System (FERS)	This chapter governs the Federal Employees Retirement System and incorporates some of the definitions of "employee" from 5 USC §8331(1)(<i>see above</i>) and excludes certain categories of employees under §8402.	5 USC 8331 (Definitions), 5 USC 8401 et seq., and 5 USC 8402 (Federal Employees' Retirement System; exclusions).
• <i>Basic Retirement Annuity</i>	The Federal Employees' Retirement System provides a basic retirement annuity as well as a survivor annuity upon the death of the federal employee. In the case of a federal employee who is married at the time of her or his retirement, the employee's basic retirement annuity is reduced by ten percent to provide for a survivor annuity. §8416. In addition, a survivor annuity may be required for a former spouse. §8417. A spouse may waive the right to a survivor annuity by filing a waiver with OPM. §8416(a)(1). The retiring employee may waive the survivor annuity without the consent of the spouse if the employee can establish to the satisfaction of OPM that (a) the spouse's whereabouts cannot be determined, or (b) due to exceptional circumstances, requiring the employee to seek the spouse's consent would otherwise be inappropriate." §8416(a)(2). For payment of lump-sum payments, the order of preference for beneficiaries is identical to the order of preference of lump-sum benefits under the Civil Service Retirement System (5 USC 8342)(<i>see above</i>).	5 USC 8415 (Computation of basic annuity), 5 USC 8416 (Survivor reduction for a current spouse), 5 USC 8417 (Survivor reduction for a former spouse), 5 USC 8418 (Survivor elections; deposit; offsets), 5 USC 8419 (Survivor reductions; computation), and 5 USC 8424 (Lump-sum benefits; designation of beneficiary; order of preference).
• <i>Thrift Savings Plan</i>	As part of the Federal Employees' Retirement System, eligible federal employees may make contributions to the Thrift Savings Fund under the Thrift Savings Plan ("TSP") as set by regulations. Under this section, an eligible employee may contribute up to 15 percent of her	5 USC 8416 (Survivor reduction for a current spouse), 5 USC 8432 (Contributions), 5 USC 8433 (Benefits and election of benefits), 5 USC 8434 (Annuities; methods of payment; purchase),

	or his basic pay, and the employing agency shall contribute up to one percent of the total basic pay for the relevant period of service. §8432, <i>see also</i> 5 CFR 1620.1 and 1620.2. The TSP allows an employee to elect an annuity payment plan for herself or himself and her or his spouse, including a survivor annuity. §8434. Section 8435 requires a written waiver of any right to a survivor annuity, jointly executed by the employee and her or his spouse, when the employee wants to withdraw all or part of her or his Thrift Savings Fund account or change a withdrawal election. §8435(a)(1)(A) and (B). There is an override provision negating the requirement of spousal consent identical to §8416(a)(2) (<i>see above</i>). In addition, any election or change of election of benefits shall not be effective to the extent it conflicts with any court decree, order or agreement expressly protecting a former spouse's rights to any portion of the balance in the employee's Thrift Savings Fund account. §8435(c).	5 USC 8435 (Protections for spouses and former spouses), 5 USC 8437 (Thrift Savings Fund), 5 CFR 1620.1 (Application), and 5 CFR 1620.2 (Definitions).
• <i>Survivor Annuities</i>	These sections determine the rights of current or former spouses, as well as dependents, to a federal employees' retirement annuity after the death of the employee, and include definitions for "widow" and "widower" as the "surviving wife or husband" of the employee. §8441(a)(1) and (2). Section 8442 provides the computation for the surviving widow or widower's annuity, and §8445 provides the same computation for a former spouse incident to an express election under §8417(b) or any decree of divorce of annulment or any court order or court-approved property settlement agreement.	5 USC 8417 (Survivor reduction for a former spouse), 5 USC 8441 (Definitions), 5 USC 8442 (Rights of a widow or widower), 5 USC 8443 (Rights of a child), 5 USC 8444 (Rights of a named individual with an insurable interest), and 5 USC 8445 (Rights of a former spouse).
Federal Employees' Group Life Insurance		5 USC 8701 et seq.
• <i>Death claims; order of precedence; optional life insurance on family members</i>	Eligible employee is defined in §8701(a), and "family member" is defined as "spouse" or "unmarried dependent child." §8701(d)(1) The order of precedence for death claims is identical to the order of precedence for receipt of survivor annuities under the Civil Service Retirement System, §8342(c) (<i>see above</i>). Section 8714c provides employees with the option of purchasing additional life insurance on "family members" (<i>see</i> §8701(d)(1) for definition).	5 USC 8701 (Definitions), 5 USC 8705 (Death claims; order of preference), and 5 USC 8714c (Optional life insurance on family members).
Federal Employees' Health Benefits Plan	Section 8901 provides definitions, including the definition of "member of family" which means spouse, unmarried dependent child under 22 years of age or over 22 years of age if the child is incapable of self-support because of "mental or physical disability which existed before age 22," adopted child, and stepchild or foster child (but only	5 USC 8901 et seq.

	if the child lives with the employee in "a regular parent-child relationship"). §8901(5).	
Plans and limitation of coverage	These sections provide (and limit) health benefits coverage and continued coverage to a federal employee, members of her or his family (her or his spouse and dependents) and, in certain circumstances, her or his former spouse. §8905a(f). <i>See</i> §8901(5)(Definition of "member of family").	5 USC 8901 (Definitions), 5 USC 8903 (Health benefits plans), 5 USC 8903a (Additional health benefits plans), 5 USC 8904 (Types of benefits), 5 USC 8905 (Election of coverage), 5 USC 8905a (Continued coverage), 5 USC 8913 (Regulations), 5 CFR 890.101 (Definitions) (noting that "member of family" has the definition given that term in 5 USC 8901), 5 CFR 890.302 (Coverage of family members), 5 CFR 890.303 (Continuation of enrollment), 5 CFR 890.801 (Benefits for former spouses; Introduction), 5 CFR 890.803 (...former spouses; Who may enroll), 5 CFR 890.804 (...former spouses; Coverage), 5 CFR 890.902 (Limit on inpatient hospital charges, physician charges, and FEHB benefit payments; Definition) (coverage for "former spouse" under 5 USC 8901), 5 CFR 890.1103 (Temporary continuation of coverage; Eligibility for "former spouses"), and 5 CFR 890.1106 (Temporary continuation of coverage; Coverage for "family member" as defined by 5 USC 8901(5)).
Coverage of restored employees and survivor/disability annuitants	A surviving spouse whose survivor annuity was terminated because of remarriage and is later restored may enroll in a health benefits plan under §8903 or §8903a if he or she was covered by such a plan before such annuity was terminated. §8908(b). A disability annuitant whose disability annuity under §8337 was terminated and is later restored (by §8337(e)) may enroll in a health benefits plan under §8903 or §8903a if he or she were covered by such a plan immediately before such annuity was terminated. §8908(c).	5 USC 8337 (Disability retirement), 5 USC 8903 (Health benefits plans), 5 USC 8903a (Additional health benefits plans), and 5 USC 8908 (Coverage of restored employees and survivor or disability annuitants).
Foreign Relations/Dept. of State: Services and facilities for employees at posts abroad	This section provides authority for the State Department to establish and maintain: non-government-operated services (furnishing of space, utilities, and properties owned or lease by the Government for use by its diplomatic, consular, and other missions and posts abroad), §2703(a); emergency commissary and mess services, §2703(b); and child care facilities, §2703(e). Section 2703(e) provides that the State	22 USC 2703 (Services and facilities for employees at posts abroad)

	Department may make grants to child care facilities, to offset in part the cost of such care, <i>in Moscow and at no more than five other posts abroad</i> . In making the determination whether such facilities are necessary to the efficient operation of the post, the State Department considers, among other factors, whether "Foreign Service spouses are encouraged to work at the post, and whether local child care is available." §2703(e)(1) and (2).		
Foreign Relations/Foreign Service: • <i>Career counseling</i>	Subsection (a) provides for professional career counseling, advice and placement assistance to Foreign Service members to facilitate their transition from the Service. Subsection (b) provides for the "facilitation of employment of spouses of members," by providing: "(A) regular career counseling for such spouses; (B) maintaining a centralized system for cataloging their skills and the various governmental and nongovernmental employment opportunities available to them, and (C) otherwise assisting them in obtaining employment." §4026(b)(1)(A)-(C).	22 USC 4026 (Career counseling)	
Foreign Service Retirement and Disability System (FSRDS)	Section 4044 provides the definitions for FSRDS, including the definition of "surviving spouse" as the "surviving wife or husband" of the employee covered by the retirement plan. §4044(13).	22 USC 4041 et seq. 22 USC 4044 (Definitions)	
• <i>Basic annuity</i>	Section 4046 provides for a reduction in the annuity of an employee who is married at the time of retirement, §4046(b), unless the employee and her or his spouse jointly waive any right to a survivor annuity (in writing). §4046(b)(1)(A). This section also serves to protect any rights a former spouse may have to a survivor annuity by requiring any waiver of the former spouse's survivor annuity to be executed jointly. §4046(b)(1)(C). Section 4046(f) provides that unmarried employees who do not have a former spouse may elect a reduced lifetime annuity in exchange for a survivor annuity "to a beneficiary who name in designated in writing to the Secretary of State." This section does not require that this beneficiary be related to the employee by blood.	22 USC 4046 (Computation of annuities)	
• <i>Retirement for disability or incapacity</i>	Any employee who has at least five years of service credit toward retirement <i>and</i> who becomes "totally disabled or incapacitated for useful and efficient service by reason of disease, illness or injury (not due to vicious habits, intemperance, or willful conduct of the participant) shall be eligible for a retirement and a disability annuity. The terms of this annuity are subject to the same terms established in	22 USC 4046 (Computation of annuities), and 22 USC 4048 (Retirement for disability or incapacity).	

	§4046 (<i>see above</i>).	
• <i>Death in service</i>	If an employee dies in service and no claim for an annuity is payable under this retirement system, then the lump-sum credit shall be paid in an order identical to §8342(c) (order of precedence for survivor annuities under the Civil Service Retirement System) (<i>see above</i>). §4055(f). There is no requirement that the beneficiary be related to the employee by blood or marriage. In the case of a spouse or former spouse who qualifies for a survivor annuity under §4054 (<i>see below</i>), this section provides the computation for such annuity.	22 USC 4049 (Death in service), and 22 USC 4055 (Lump-sum payments).
• <i>Former spouses</i>	This section provides for a former spouse to receive an annuity upon the retirement and/or death of the federal employee (subsequent to the requirements of this section).	22 USC 4054 (Former spouses), and 22 USC 4159 (Survivor benefits for certain former spouses).
• <i>Compatibility between retirement systems</i>	This section provides for "conformity" between the Foreign Service Retirement and Disability System, the Civil Service Retirement System, and the Federal Employees' Retirement System.	22 USC 4067 (Compatibility between retirement systems)
• <i>Eligibility and benefits for former spouses</i>	These sections provide the eligibility requirements and benefits available for former "spouses" under the FSDRS.	22 USC 4069-1 (Qualified former wives and husbands), 22 USC 4069a (Retirement benefits for certain former spouses), and 22 USC 4069a-1 (Retirement benefits for certain former spouses).
• <i>Survivor benefits for certain former spouses</i>	These sections provide the eligibility requirements and benefits available for former "spouses" under the FSDRS.	22 USC 4069b (Survivor benefits for former spouses), and 22 USC 4069b-1 (Survivor benefits for former spouses).
• <i>Health benefits for certain former spouses</i>	These sections provide the eligibility requirements, prerequisites for enrollment, and limited access to health benefits for "former spouses" under the FSDRS.	22 USC 4069c (Health benefits for former spouses), and 22 USC 4069c-1 (Health benefits for former spouses).
Foreign Service Pension System (FSPS)		
• <i>Former spouses</i>	This section provides for a former spouse's entitlement to share in benefits under the Foreign Service Pension System.	22 USC 4071j (Former spouses), and 22 USC 4071k (Spousal agreements).
Foreign Service/Travel, Leave and other Benefits		
• <i>Travel and related expenses</i>	This section provides the authority for the Department of State to pay the travel and related expenses of member of the Foreign Service and their families, including costs or expenses incurred for: (1) travel to and from assigned duty posts; (2) authorized or required home leave, (3) family members to accompany Foreign Service member; (4) leave for the purpose of obtaining necessary medical care, (5) rest and	22 USC 4081 (Travel and related expenses)

	recuperation travel for Foreign Service members and their families, and (6) moving costs for transporting household furniture, effects and belongings to successive posts of duty or to or from a place of storage (partial list). §4081. This section does not include a definition of "family member."	
• <i>Health care program</i>	This section provides the authority for the Department of State to provide health care services for employees (and member of their families) when serving abroad. These services may include medical examinations and inoculations or vaccinations, and "other preventive and remedial care and services as necessary." This section also provides that the State Department may pay the cost of any necessary treatment for illness, injury or medical condition incurred by any eligible individual while assigned to a post abroad. §4084(b). This section does not include a definition of "family member."	22 USC 4084 (Health care program)
Foreign Service/Grievances		22 USC 4131 et seq.
• <i>Grievances concerning former members or their survivors</i>	This section provides that a surviving spouse of a deceased Foreign Service member (or another "member of the family" of the employee) may file a grievance under this chapter (22 USC 4131 et seq.) as long as the grievance is filed within a 3-year period. §4134. Section 4131 (Definitions...) does not include a definition of "family member."	22 USC 4131 (Definitions and applicability), 22 USC 4132 (Grievances...), and 22 USC 4134 (Time limitations).