



Human Resources Dept.

CITY OF BERKELEY EMPLOYEES DOMESTIC PARTNERSHIP INFORMATION SHEET

Please Read Carefully

The City of Berkeley has a policy extending benefits to the Domestic Partners of its employees. This is in an attempt to try to equalize employment benefits between married couples and couples who are not married, either through choice or because they are barred from marriage, as in the case of lesbian or gay male couples.

Benefits available to domestic partners of City employees include medical and dental coverage, family sick leave and bereavement leave, and Employee Assistance Plan (EAP) benefits. Both the employee and the domestic partner requesting these benefits must attest to certain facts by completing and signing the attached **Affidavit of Domestic Partnership**, including a declaration of responsibility by the signing parties for their common welfare. The employee must also provide documentation to show that the employee and his or her domestic partner have been residing together for at least six months prior to the time of application for benefits. Examples of appropriate documentation include a photocopy of a driver's license, utility bill, bank statement, or rental agreement showing your partner's name and address.

The completed Affidavit of Domestic Partnership along with documentation should be submitted to the Human Resources Department. **Once Human Resources approves the Affidavit of Domestic Partnership, employees have thirty (30) days to complete the enrollment forms to add their partner to their medical and dental coverage.** Otherwise, the employee will have to wait until the annual open enrollment period in November to add the partner. The enrollment forms are completed at the Auditor's Office or can be submitted along with the Affidavit to the Human Resources Department.

It should be noted that this declaration may have potential legal implications under California law which has recognized that non-marital cohabiting couples may privately contract with respect to the financial obligations of their relationship. If you have questions regarding the potential legal effects of signing the Affidavit of Domestic Partnership, you should consult an attorney.

Taxation of Domestic Partner Benefits

A domestic partner as defined by the City does not usually meet the definition of a dependent as defined in Internal Revenue Code Section 152(a), or a spouse as defined in Public Law 104-199. Consequently, the IRS treats the health insurance premiums paid on behalf of the partner as wages to the employee and the premiums are subject to federal and state income tax withholding. The City of Berkeley is required to withhold Federal and State income taxes for medical and dental insurance premiums for those employees with an active Affidavit of Domestic Partnership on file in the Human Resources Department unless the domestic partner and/or dependents of the domestic partner meet the IRS requirements to qualify as a dependent. The City taxes medical benefits based on the single party rate of the applicable health plan. Based on advice from Delta Dental, the City taxes dental benefits based on the single party COBRA rate. The taxes withheld are: 1) Federal income tax, 2) State income tax, 3) Medicare tax, and 4) State Disability Insurance. The taxes withheld are based on the monthly premium rates and the employee's personal tax status.

Exemptions from Taxation

1. If the domestic partner of the employee meets the definition of a dependent under the Internal Revenue regulations, the City is not required to withhold payroll taxes. If this is the case, the employee must complete a City of Berkeley Domestic Partner Program IRS Affidavit of Dependency Status form. Upon receipt of this completed form, the Human Resources Department will notify the Auditor's Office not to withhold any taxes as a consequence of the domestic partner relationship.
2. Effective January 1, 2002, new California legislation exempts benefits for employees' domestic partners from state income tax to the same extent as benefits for employees' spouses and dependents. **This law only applies to domestic partners registered with the State of California. Only same-sex partners or partners over the age of 62 and receiving Social Security benefits can register with the State of California as domestic partners under this new law.** When an employee and domestic partner are registered by both the City of Berkeley and the State of California, both employee and partner should sign at the bottom of the City of Berkeley Affidavit of Domestic Partnership form under the "State of California Domestic Partner Registration" section. The Human Resources Department will notify the Auditor's Office not to withhold State taxes.

Dependents of Domestic Partners

Dependents of domestic partners will **only** be eligible for medical and dental coverage if they meet the definition of a dependent of the **employee** according to the Internal Revenue regulations. **A Domestic Partner Program IRS Affidavit of Dependency Status form *must* be completed and submitted to the Human Resources Department in order for dependents of the domestic partner to be eligible for medical and dental benefits.** The affidavit, as well as the medical and dental enrollment forms, must be submitted within thirty (30) days of approval of the domestic partner affidavit. Otherwise, the employee will have to wait until the annual open enrollment in November to add these dependents.

Definition of Domestic Partnership

For the purpose of the City of Berkeley health, dental, EAP and leave benefits, “domestic partner” shall exist between two persons regardless of their gender and each of them shall be the “domestic partner” of the other if they both complete, sign and file with the Human Resources Department an “Affidavit of Domestic Partnership” which includes the following statements:

- a. *The two parties reside together and have done so for at least six months and intend to reside together indefinitely and share the common necessities of life;*
- b. *The two parties are subject to the same 30-day “window” periods governing all other employees who are covered by or applying for health plan coverage. New children, new employees, adoptions, new marriages and new domestic partnerships are all subject to a 30-day limit on the enrollment period beginning on the date of the event;*
- c. *The two parties are not married, eighteen (18) years or older, not related by blood closer than would bar marriage in the State of California, and mentally competent to consent to contract;*
- d. *The two parties declare that they are each other’s sole domestic partner and they are responsible for their common welfare;*
- e. *The two parties agree to notify the employer with whom the “Affidavit of Domestic Partnership” is filed if there is any change in the circumstances attested to in the affidavit;*
- f. *The two parties affirm, under penalty of perjury, that the assertions in the affidavit are true to the best of their knowledge.*

Termination of Domestic Partnership

A member of a domestic partnership may end said relationship by filing a “Termination of Domestic Partnership” form with the Human Resources Department. In the statement, the individual filing must affirm, under penalty of perjury that: 1) the partnership is terminated, and 2) a copy of the termination statement will be mailed to the other partner unless both have signed the termination statement.

No individual who has filed an Affidavit of Domestic Partnership may file another such affidavit until six (6) months after a statement of termination of the previous partnership has been filed with the Human Resources Department.

If the City, any health care provider, or other person suffers any loss because of a false statement contained in an affidavit of Domestic Partnership or failure to notify the City of changed circumstances as required in **paragraph e.** above, may then such entity or person bring a civil action to recover their losses, including reasonable attorney’ fees.

CITY OF BERKELEY EMPLOYEES

AFFIDAVIT OF DOMESTIC PARTNERSHIP

EMPLOYEE AND DOMESTIC PARTNERS' AFFIDAVIT

We the undersigned, do declare that we meet the requirements of the City of Berkeley Domestic Partnership policies, which are as follows:

- Both persons are sharing a common residence and necessities and have done so for a minimum of six (6) consecutive months.
- Neither person is married to someone else or is a member of a domestic partnership with someone else that has not been terminated or dissolved at least six months previous to today.
- Both persons are not related by blood in a way that would prevent them from being married to each other.
- Both persons are at least eighteen (18) years of age.
- Both persons are capable of consenting to the domestic partnership.

The information provided in this Affidavit is to be used by the City of Berkeley for the sole purpose of determining eligibility for domestic partnership benefits. We understand that this information will be held confidential and will be subject to disclosure only upon our written authorization or pursuant to a court order.

The representations are true and correct, and contain no material omission of fact to the best of our knowledge and belief. Filing an intentionally and materially false Affidavit of Domestic Partnership or not reporting any changes affecting the qualifications for domestic partnership within thirty (30) days, may result in civil action against either or both of us by the City, healthcare providers, or any involved party, to recover losses, damages, and any reasonable attorney fees.

EMPLOYEE

Printed Name (Last)

(First)

Signature of Employee

Date

Date of Birth: _____

DOMESTIC PARTNER

Printed Name (Last)

(First)

Signature of Domestic Partner

Date

Date of Birth: _____

EMPLOYEE SECTION

THIRTY DAYS

I understand that all medical and/or dental enrollment documents must be submitted to Human Resources or the Payroll Audit office within thirty (30) calendar days of the effective date of this domestic partnership. Benefits are effective on the first day of the month following the effective date of the domestic partnership.

CITY OF BERKELEY EMPLOYEES

AFFIDAVIT OF DOMESTIC PARTNERSHIP

CHANGES TO DOMESTIC PARTNERSHIP STATUS

I understand that I am required to notify the City of any changes affecting the qualifications for domestic partnership attested to in this affidavit within thirty (30) days of change by filing a "Termination of Domestic Partnership" form. Such termination statement shall be on a form provided by the City and shall affirm under penalty of perjury that the partnership is terminated and that a copy of the termination statement has been mailed to the other partner.

FEDERAL AND STATE TAXES

I understand that medical and dental benefits provided for domestic partners are taxable under federal and state regulations and that the City of Berkeley will withhold taxes from my paycheck based on the fair market value of the medical and/or dental benefits for my domestic partner.

Exceptions to state tax: domestic partnership is registered with the State of California with proof on file.

Exceptions to Internal Revenue regulations: Domestic partner is an IRS dependent with a Domestic Partner IRS Affidavit of Dependency Status form on file. To qualify for this exception IRS dependency form must be submitted yearly.

Employee Signature

Date

RETURN COMPLETED FORM AND DOCUMENTATION TO:

City of Berkeley
Human Resources
2180 Milvia Street 1st floor
Berkeley CA 94704

For detailed information on the City of Berkeley's Domestic Partnership requirements, please go the City of Berkeley's Intranet (icobweb), click on Groupware, Human Resources, and click on Domestic Partnership.

For Human Resources only

Effective Date of Domestic Partnership: _____

Documentation provided

- ☐ State Registered Domestic Partnership Certificate. Dated _____
- ☐ Same Sex Marriage certificate issued by the state of _____. Dated _____
- ☐ IRS dependent with a Domestic Partner IRS Affidavit of Dependency Status form
- ☐ drivers' license ☐ utility bill ☐ bank statement ☐ rental agreement ☐ Other _____

CITY OF BERKELEY
ANNUAL DOMESTIC PARTNER PROGRAM IRS AFFIDAVIT
OF DEPENDENCY STATUS

The Internal Revenue Service (IRS) requires that the fair market value of benefits provided for domestic partners/dependents of a domestic partner must be added to an employee's income unless the domestic partner and/or the dependents of the domestic partner meet the IRS requirement to qualify as a dependent. The dependency status must be confirmed and/or updated annually or within 30 days of any changes to dependent status. The children of the domestic partner must be an IRS dependent of the employee to be eligible for benefits.

If the domestic partner and/or the dependents of the domestic partner meet the IRS requirements to qualify as a dependent, the benefit is exempt from taxes.

AFFIDAVIT

I attest that the following individuals named below meet all of the IRS tests for dependency status as listed below and as a consequence qualify as a dependent for purposes of benefits provided by the City.

Further, I understand that the IRS Affidavit must be confirmed annually and I agree to report any **CHANGES TO DEPENDENT STATUS** that will affect any of the named dependent's status, to the Human Resources department, within thirty (30) days of any change. I understand that if I do not report changes to dependent status, I will be liable for any penalties and taxes that may apply.

Domestic Partner	IRS Dependent of employee? <input type="checkbox"/> NO <input type="checkbox"/> YES	If YES, name: _____
Domestic Partner's Child(ren)	<input type="checkbox"/> NO <input type="checkbox"/> YES	If YES, name(s): _____
IMPORTANT NOTE: <i>In order to be eligible for COB benefits, children of DP must be IRS dependents</i>		_____ _____ _____

IRS DEPENDENCY STATUS TESTS: Below are excerpts from the **basic** tests for IRS Publication 501 dependent regulations that apply to the City of Berkeley and healthcare providers' eligibility for enrollment. For more details on IRS Publication 501, contact the Internal Revenue Service or visit their website.

To claim Domestic Partner as your dependent:

1. Must live with you all year as a member of your household (and your relationship must not violate local law).
2. The person's gross income for the year must be less than the IRS published amount for the tax year.
3. You must provide more than half of the person's total support for the year.

To claim Domestic Partner's child as your dependent:

1. The child must be (a) under age 19 at the end of the year, (b) under age 24 at the end of the year and a full-time student, or (c) any age if permanently and totally disabled.
2. The child must have lived with you for more than half of the year.
3. The child must not have provided more than half of his or her own support for the year.
4. If the child meets the rules to be a qualifying child of more than one person, you must be the person entitled to claim the child as a qualifying child.

I affirm, under penalty of perjury, that the assertions in this Affidavit are true and correct to the best of my knowledge. Additionally, I agree to hold the City harmless and will assume full liability for any penalties and taxes owing in the event that the above individuals do not qualify as dependents and subsequent income must be added to my income for benefits provided under the Domestic Partner program.

Employee Name (print): _____ Last 4 digits of Social Security Number: _____

Employee Signature: _____ Date: _____

CONFIDENTIAL

City of Berkeley

TERMINATION OF DOMESTIC PARTNERSHIP

I _____ **Certify that:**
Name of employee (please print)

I _____ and _____
Name of employee (please print) Name of domestic partner (please print)

have terminated our domestic partnership on _____ due to:
(date)

☐ **Separation** **OR** ☐ **Marriage**

- I affirm, under a penalty of perjury, that a copy of the termination statement has been mailed to my former domestic partner.
- I understand that another affidavit of Domestic Partnership cannot be filed until six (6) months after the statement of termination of the previous partnership has been filed with the Department of Human Resources.
- I understand that this statement of termination of domestic partnership must be filed with:
City of Berkeley, Human Resources Department
2180 Milvia Street
Berkeley, CA 94704
Attn: Benefits Analyst
- I affirm, under penalty of perjury, that assertions in this affidavit are true to the best of my knowledge.

IMPORTANT NOTE: If your domestic partner was receiving medical and/or dental benefits through the City of Berkeley, the Fair Market Value of the benefit was considered taxable income. The taxable income (TAX DP...) is on the first check of each month. Following termination of your partnership, notify Payroll Audit to update your benefits. Review the BENEFITS (CUR) column of your next payroll stub to ensure that the taxable income (TAX DP...) is no longer active.

Signature

Date