

# **IU Domestic Partner Benefits Resolution**

**March 25, 2016**

Whereas the Trustees of Indiana University have voted to eliminate domestic partner benefits, resulting in unequal treatment of faculty on the basis of marital status;

Whereas the Nondiscrimination Policy of Indiana University states:

“Indiana University prohibits discrimination based on arbitrary considerations of such characteristics as age, color, disability, ethnicity, gender, gender identity, marital status, national origin, race, religion, sexual orientation, or veteran status.”

Whereas the Trustees of Indiana University have voted to eliminate these benefits, resulting in unequal treatment of faculty and diminishment of their effective compensation;

Whereas The Constitution of the Faculty of Indiana University states:

‘The Trustees and administration should consult the faculty concerning: ... B. Budgets. C. Faculty compensation and benefits ... Consultation of the faculty shall be through representatives authorized by faculty governance institutions. Consultation should occur sufficiently in advance of action to permit faculty deliberation.’ (Article II, Section 2.3.)

Whereas no such meaningful consultation occurred by the “Trustees or administration” regarding the changes to “Faculty compensation and Benefits”;

Be it resolved that the Faculty of Indiana University South Bend calls on the IU Administration (1) to make available to IU employees in 2017 and beyond the domestic partner benefits that have been available for 2016 and earlier, (2) to extend domestic partner benefits to couples regardless of marital status and/or gender, (3) and to alter benefits in the future only after meaningful consultation with the faculty ‘through representatives authorized by faculty governance institutions’ and that such ‘Consultation should occur sufficiently in advance of action to permit faculty deliberation.’

## Supporting Documents

### IU Domestic Partner Benefits Resolution from IU South Bend

#### 1) Retaining domestic partnership benefits shows the university's support for all families.

Saranna Thornton, a professor of economics at Hampden-Sydney College and chair of the American Association of University Professors' Committee on the Economic Status of the Profession, said AAUP guidelines on family responsibilities and academic work say institutions should strive to create academic communities in which "all members are treated equitably, families are supported, and family-care concerns are regarded as legitimate and important."

She continued via email: "Applying that principle to the provision of domestic-partnership benefits, the AAUP recognizes that families take many forms, not all of which are covered by traditional benefits plans. The AAUP supports making employee benefits available to faculty and staff in both traditional and non-traditional family structures."

<https://www.insidehighered.com/news/2014/07/18/partner-benefits-higher-ed-evolve-more-states-recognize-gay-marriage>

#### 2) AAUP's domestic partnership form offers a simple and widely approved model.

<http://hrc-assets.s3-website-us-east-1.amazonaws.com/files/assets/resources/Sample-Statement-of-Domestic-Partnership-American-Association-of-University-Professors.pdf>

#### 3) Many public universities in our region have chosen to retain domestic partner benefits for all workers in the wake of marriage equality. A top reason cited is attracting and retaining quality employees.

Ohio University: <https://www.ohio.edu/policy/40-013.html>

University of Wisconsin: <http://www.ohr.wisc.edu/benefits/domestic-partnership.aspx>

University of Iowa: <http://hr.uiowa.edu/benefits/domestic-partners>

University of Michigan: <https://hr.umich.edu/benefits-wellness/health/changing-your-benefits/life-events/domestic-partnerships>

Wright State University: <https://www.wright.edu/human-resources/benefits/open-enrollment/domestic-partnership-benefits>

#### 4) Without a change in policy, domestic partnerships will be discontinued at Indiana University.

##### Domestic Partners at Indiana University – Issue Summary:

On October 9, 2015, the Indiana University Board of Trustees voted to discontinue domestic partner benefits effective December 31, 2016. This policy change was announced on November 19, 2015.

This decision by the Board was made as a result of the US Supreme Court ruling on June 26, 2015, that legalized same-sex marriage. Before this change, same-sex domestic partners were eligible for benefits after registering with the university. As noted in the announcement of the change, “Prior to this ruling the University’s Affidavit of Domestic Partnership stated, ‘We would enter into a legal marriage if the opportunity were available’” (November 19, 2015, memo from University Human Resources, “Discontinuation of Domestic Partner Benefits Program”).

It should be noted that the Board passed its resolution approving benefits to same-sex domestic partners on September 14, 2001. The policy went into effect on April 1, 2002. Other-sex (i.e., heterosexual) domestic partners were *not* eligible for benefits under this policy; other-sex couples needed to be married to receive benefits. These benefits were approved for “same-sex domestic partners of Indiana University employees and students who demonstrate that they are in a ‘verifiable committed relationship’” (Indiana University, University Human Resources, “Domestic Partner Coverages,” <http://www.indiana.edu/~uhrs/benefits/dp/dp.html>, accessed 26 Jan 16). To be eligible for benefits, individuals had to complete and submit the “Affidavit of Domestic Partnership.” This section of the affidavit indicates what evidence must be provided to qualify as domestic partners:

“In lieu of the marriage certificate that the University requires to cover a spouse, I am submitting the following supporting documentation to verify our interdependent financial relationship:

A civil union registration, or domestic partnership registration issued by a state or foreign nation that has legalized same-sex civil unions, or domestic partnerships; or

Joint ownership of a residence (home, condo, mobile home); or

One of the following: a lease for a residence identifying both partners as tenants; joint ownership of a motor vehicle; joint credit account; joint checking account; or other evidence of joint ownership of a major asset or joint liability of debt. “Additionally, individuals applying for benefits must affirm the following:

“*I declare that my partner and I:*

- 1) are at least 18 years of age and competent to enter into a contract.
- 2) are not married to another individual and are not the domestic partner of another individual.
- 3) are not related by blood closer than would bar marriage in the state of Indiana.
- 4) live together as a couple in a shared residence and intend to live together indefinitely.
- 5) have a relationship of exclusive mutual commitment that is the functional equivalent of a marriage; that is,
  - we are jointly responsible for each other for the necessities of life including each other’s financial obligations;
  - and
  - we intend to remain in the relationship indefinitely; and
  - we understand IU-benefits will end December 31, 2016, unless we enter into a legal marriage recognized in the United States;
  - we have agreed that in the event of dissolution of our domestic partnership, there will be a negotiation of the division of property similar to that required of a married couple in the event of a divorce.”

We encourage IU to reconsider this policy change and expand domestic partner coverage rather than end it.

## 5) Upon hearing about the proposed resolution, faculty had questions. FAQs:

### **What is the issue here?**

IU has announced plans to cancel domestic partnership benefits (effective December 31, 2016). This policy change reflects a narrow definition of family, as it recognizes legal marriage as the only way for individuals to form a family. Families today come in a variety of different forms, not all of them based in marriage.

### **Why not just get married?**

The only thing that has changed here is the Supreme Court decision legalizing same-sex marriage. These individuals' family situation is no different than it was prior to the decision. The right to marry should not become a requirement to marry. Although it is true that registered domestic partners signed a statement indicating that they would marry if legally allowed to do so, the new ability to marry in Indiana was not accompanied by civil rights protections for couples who choose to marry. Gay people can still be fired or denied housing or public accommodations on the basis of sexual orientation or gender identity.

### **What about fraud? Couldn't anyone who wanted benefits apply to be a "domestic partner"?**

The previous policy required documentation and affirmation. That documentation, or additional documentation (as recommended by the American Association of University Professors), could still be used to verify a domestic partnership. And keep in mind that providing a marriage certificate is no guarantee that the relationship is not fraudulent. Domestic partners would be providing far more documentation than is required from people who get married. They are not required to provide any evidence aside from the marriage certificate, let alone the affirmation/certification required of domestic partners. (See above.)

### **Why should IU reconsider this policy change?**

An August 2015 survey by the International Foundation of Employee Benefit Plans found that 70% of mid-sized to large-sized companies that provided benefits to same-sex domestic partners at the time of the ruling said that they are likely to continue to do so. Among those who provided such benefits for both heterosexual and homosexual domestic partners, 80% indicated that they would continue to do so. Reasons cited included: retaining and attracting quality employees, recognizing all types of families, believing it is the right thing to do, and the fact that many of their employees were choosing to stay in domestic partnership rather than to marry. Other Midwestern public universities have already decided to continue (and expand) benefits. Another concern is that same-sex couples may not be comfortable making an outward expression of their relationship by getting married, especially in states (like Indiana) that don't have anti-discrimination laws covering LGBT individuals." By recognizing domestic partners – same-sex or other-sex – the university would be acknowledging the reality of family diversity in the twenty-first century. IU would be a leader in supporting its employees and students and their families.

### **Is this an issue that actually affects current faculty members at Indiana University?**

Yes, here is what one faculty member had to say:

"My commitment to my domestic partner and our children is not based in a law. It is a commitment I made and will continue to honor because it is my choice to do so. Being legally married only became a factor when the law changed—a law that is framed as creating equality but that also reflects a human prejudice. The idea that my commitment can only be represented and realized through marriage is based on a narrow view of family. Frankly, it is discriminatory.

"My commitment to my partner and children has not changed. It is a commitment I made outside the law. Why is it assumed that a change in the law has anything at all to do with my commitment to them?

"Yet, by choosing to honor only those commitments made legal by marriage, IU is telling me that a commitment I made and have done nothing but honor matters not a bit. IU is telling me that my commitment only counts now if it is made through a legal marriage.

"I have devoted myself to my family for the last 6 years. I have made it clear through word and deed that they can count on me. I have supported and helped raise two children to whom I have no biological or legal relationship, despite having no rights as a parent. I have supported my partner in every way possible, yet, legally, we are considered to be strangers.

"IU's domestic partner policy recognized our family. Ending that policy is the equivalent of revoking that recognition. Yet the only thing that changed was a law. We are still a family. No law can change that." (Betsy Lucal, Professor of Sociology, IUSB)

## **Additional rationale for the continuance (and expansion) of Domestic Partner benefits at IU:**

*Denise Bullock, Associate Professor of Sociology, IU East*

- Many LGBTQ identified individuals have an ideological objection to the historically patriarchal (and religious affiliated) institution of marriage. I have had many conversations on this issue. It is unfair to these individuals to force them to go against their ideological beliefs in order to protect their families.
- Marriage becomes part of the public records and some LGBTQ couples would be placed in a risky social/personal position by the public announcement. There are couples here in Richmond, for example, who have not married because the announcement automatically is placed in the paper. This visibility is seen to place them at risk.
- Having Domestic Partner benefits symbolically sends a message to all prospective faculty, staff, and students that IU is a welcoming and accepting institution. When I was on the job market, I only applied to institutions that had Partner benefits.
- The Indiana State Legislature continues to bring bills forward to challenge same-sex marriage in the state. So long as this issue is being contested, IU should be standing strong in support of the LGBTQ community.
- It is true that because some couples will choose to marry the number of people requesting Partner benefits will be reduced, the need will still be there for others.