

FREQUENTLY ASKED QUESTIONS (FAQ's)
AB 205, Domestic Partner Legislation
GENERAL INFORMATION

When does CalPERS require a copy of the certificate or registration of domestic partnership to qualify for a benefit?

CalPERS' requires a copy of the domestic partner certificate or registration when:

- 1) a member applies for retirement and a registered domestic partner would qualify for survivor continuance (survivor continuance application questionnaires are included in the Stepping Into Retirement and Your Disability Retirement Application publications)

- 2) a retiree enters into a registered domestic partnership after the retirement date and wishes to change the retirement option to provide for a continuing benefit to the retiree's registered domestic partner upon death (see Publication Changing Your Beneficiary)

Does a registered domestic partner have a community property interest in the employee's CalPERS pre-retirement death benefits?

A registered domestic partner has the same community property rights as a spouse. Therefore, if an employee has a registered domestic partner and wishes to name someone other than their partner as beneficiary they may do so. However, the registered domestic partner may be entitled to a share of the retirement contribution portion of the lump sum death benefit or a portion of the monthly death benefit, if applicable, based on their community property interest in the employee's account. The remaining death benefit amount would then be paid to the employee's designated beneficiary(ies).

What if a beneficiary designation is on file and the employee later enters into a registered domestic partnership?

A beneficiary designation form is automatically revoked if the employee enters into or legally terminates a registered domestic partnership after the designation form is filed. However, a designation form filed after initiation of partnership termination is not revoked when the termination is finalized. When a designation form is revoked, benefits are payable to the closest surviving family member based on the following order: 1) spouse or registered domestic partner, or if none, 2) children, or if none, 3) parents, or if none, 4) siblings, or if none, 5) estate.

If an employee enters into a registered domestic partnership with someone who already has a child(ren), will that child(ren) be entitled to any benefits, i.e., Special Death Benefit or 1959 Survivor Benefit, upon the employee's death?

The employee's registered domestic partner's unmarried child(ren) under age 22 may be eligible for the Special Death Benefit or 1959 Survivor Benefit if the child(ren) was living with the employee in a parent-child relationship at the time of the employee's death. Please refer to the Health Benefits section for information on health benefit entitlement.

What are the tax implications of the lump sum benefit for a registered domestic partner?

The federal government does not recognize domestic partners as a "spouse". Therefore, a registered domestic partner who is entitled to a taxable lump sum death benefit may not elect to roll it into an IRA. Federal tax withholding is not mandatory when a benefit is paid to a registered domestic partner. If the partner elects to have federal tax withheld from the lump sum payment, it will be deducted based on 10 percent of the taxable amount.

POST-RETIREMENT DEATH BENEFITS

Will a registered domestic partner be eligible for the Survivor Continuance Allowance?

If the employee retires on or after January 1, 2005, their registered domestic partner will qualify for the survivor continuance death benefit IF their partnership is registered for at least one year before the employee's service retirement effective date or on the employee's disability retirement effective date. Survivor continuance is available to public agency employees only if your agency contracts for it. Survivor continuance is an amount equal to one-quarter or one-half of the unmodified retirement amount, depending on whether the employee's service is coordinated with Social Security or not. The survivor continuance benefit may be paid to a qualifying survivor in addition to any other death

After retirement will a registered domestic partner be entitled to any lump sum benefits payable upon the retiree's death?

If there is no valid "lump sum" beneficiary designation at the time of the retiree's death, the lump sum benefits will be paid to the surviving registered domestic partner as the closest family member. Beneficiary Designation forms, BSD-509, are available via the CalPERS' Web site www.calpers.ca.gov, or by calling our toll-free number, (888) CalPERS (225-7377).

What if at retirement the retiree has a beneficiary designation on file and then enters into a registered domestic partnership?

A lump sum beneficiary designation form is automatically revoked if the retiree enters into or legally terminates a registered domestic partnership after the designation form is filed. However, a designation form filed after initiation of partnership termination is not revoked when the termination is finalized. When a designation form is revoked, the lump sum benefits are payable to the closest family member based on the following order: 1) spouse or registered domestic partner, or if none, 2) children, or if none, 3) parents, or if none, 4) siblings, or if none, 5) estate.

Does a registered domestic partner have a community property interest in the employee's Option 1 lump sum death benefit?

A registered domestic partner may be entitled to a community property share of the lump sum Option 1 benefit, "return of unused contributions". Therefore, if an employee has a registered domestic partner to whom they were registered prior to retirement and the employee wishes to name someone other than their partner as their beneficiary for the Option 1 lump sum death benefit they may do so. However, their registered domestic partner may be entitled to a share of the Option 1 benefit and the remaining amount would then be paid to the employee's designated beneficiary(ies).

What are the tax implications of the retired lump sum death benefits for a registered domestic partner?

The federal government does not recognize registered domestic partners as a "spouse". Therefore, a registered domestic partner who is entitled to a taxable lump sum death benefit may not elect to roll it into an IRA. Federal tax withholding is not mandatory when a benefit is paid to a registered domestic partner. If the partner elects to have federal tax withheld from the lump sum payment, it will be deducted based on 10 percent of the taxable amount.

HEALTH BENEFITS

Does this bill impact benefits available in the CalPERS Health Program?

Yes, effective January 1, 2005, employees and annuitants of the state or a contracting agency may enroll a validly registered domestic partner in the same manner as other eligible family members.

How can a member add a domestic partner to his or her health enrollment?

1. In general, domestic partners must first register with the California Secretary of State. Information about domestic partnership registration is available at the Secretary of State's Web site at www.ss.ca.gov.
2. Upon completion of the registration process, the active employees must submit a *Benefits Enrollment Worksheet* to Human Resources, Warren Hall 615. A retiree must submit this information to the CalPERS' Office of Employer and Member Health Services.

3. A copy of the finalized *Declaration of Domestic Partnership* provided by the Office of the Secretary of State must accompany all enrollment of a domestic partner.
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