

MS 604 Family Members and Domestic Partners

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Attachments

Attachment A – OF-126 Residency and Dependency Report

Attachment B – Affidavit Declaring Domestic Partner Relationship

1.0 Authority

22 U.S.C. 2503(b); Sec. 901 of the Foreign Service Act, 22 U.S.C. 4081; Department of State Standardized Regulations; Presidential Memorandum for Heads of Executive Departments and Agencies, Federal Benefits and Non-Discrimination, June 17, 2009.

2.0 Policy

The Peace Corps provides benefits to its U.S Direct Hire employees and U.S. citizen personal services contractors serving overseas based on the benefits provided under the Department of State Standardized Regulations (DSSR). In 2009, DSSR was amended to provide benefits to same-sex domestic partners of Foreign Service employees that were comparable to benefits provided to married spouses of Foreign Service employees. Based on this action, in 2009, the Peace Corps began to offer benefits to its U.S Direct Hire employees and U.S. citizen personal services contractors serving overseas. As a result of recent Supreme Court decisions, making same-sex marriage legal throughout the United States, the Department of State announced that it would phase out benefits to same-sex couples because they can now marry and receive the spousal benefits that were previously unavailable. The Peace Corps must follow the action of Department of State and phase out its same-sex domestic partner benefits as provided in 10.0.

3.0 Applicability

Except as otherwise stated, the definitions and procedures in this Manual Section apply only to U.S. citizen Direct Hire employees and U.S. citizen personal services contractors serving overseas. They do not apply to Peace Corps employees serving in the United States, to Non U.S. citizen personal services contractors, or to Foreign Service National employees. This Manual Section also does not apply to Volunteers or Trainees.

4.0 Definition of Family, Family Member, and Dependent

For purposes of the Peace Corps Manual, unless otherwise stated, "family," "family member," or "dependent" means one or more of the following individuals residing in the same quarters as the employee at his/her post, or who would normally reside at the post except for the existence of circumstances cited in Section 262 of the Department of State Standardized Regulations (DSSR) pertaining to separate maintenance allowance, but who does not receive from the government an allowance similar to that granted to the employee and who is not deemed to be a dependent or a member of the family of another employee for the purpose of determining the amount of a similar allowance:

- (a) Spouse or domestic partner, but not both;
- (b) Children who are unmarried and under 21 years of age or, regardless of age, are incapable of self-support. The term shall include, in addition to natural offspring, step and adopted children and those under legal guardianship of the employee, of the spouse, or of the domestic partner when such children are expected to be under such legal guardianship at least until they reach 21 years of age and when dependent upon and normally residing with the guardian. Any child or children of a domestic partner of an employee shall be deemed a stepchild of the employee. (See Sections 270 and 280 of the DSSR on education allowances and educational travel.);

- (c) Parents (including step- and legally adoptive parents) of the employee, of the spouse, or of the domestic partner, when such parents are at least 51 percent dependent on the employee for support;
- (d) Sisters and brothers (including step or adoptive sisters, or step or adoptive brothers) of the employee, of the spouse, or of the domestic partner, when such sisters and brothers are at least 51 percent dependent on the employee for support, unmarried and under 21 years of age or, regardless of age, are incapable of self-support. (See also Sections 270 and 280 on education.); and
- (e) When determined by the Peace Corps Director to be in the interest of the Government, a father, mother, brother, sister, son or daughter, regardless of age or dependency, who acts as the official hostess or equivalent for an employee who has no spouse or domestic partner residing with him or her at the post.

5.0 Definition of Domestic Partner

A domestic partner for purposes of the Peace Corps Manual is an individual who meets all of the criteria listed in, and who has been declared to be, a domestic partner of an employee in accordance with, this Manual Section. As set out in section 7.0 below, only same-sex domestic partners may be declared.

6.0 Declaration of a Domestic Partner

To obtain benefits and assume obligations of family members under the Peace Corps Manual, an employee must file with HR or their Contracting Officer as applicable:

- (a) an OF-126 Residency and Dependency Report (Attachment A) (For domestic partners, the employee can amend the OF-126 with a pen-and-ink change to add "domestic partner" in the box requesting "relationship"); and
- (b) for a domestic partner, a Peace Corps Form - PC604A, Affidavit Declaring Domestic Partner Relationship (Attachment B).

7.0 Affidavit for Declaration of a Domestic Partner

The Affidavit Declaring Domestic Partner Relationship identifies the employee's domestic partner and affirms that:

- (a) The employee and the domestic partner are each other's sole domestic partner and intend to remain committed to one another indefinitely;
- (b) With regard to a common residence:
 - (1) The employee and the domestic partner have a common residence and intend to continue the arrangement; or

- (2) The employee and the domestic partner have had a common residence and intend to resume having a common residence after an assignment abroad for which the domestic partner did not accompany the employee; or
 - (3) The employee and the domestic partner would have a common residence, but are prevented from having one for reasons described by the employee, and the Chief Human Capital Officer in the Office of Human Resources or his or her designee determines that the circumstances described are sufficient to justify the waiver of the common residence requirement. Unless and until such a determination is made, the domestic partner relationship does not qualify for benefits and obligations under the Peace Corps Manual;
- (c) The employee and the domestic partner are at least 18 years of age and mentally competent to consent to contract;
 - (d) The employee and the domestic partner share responsibility for a significant measure of each other's common welfare and/or financial obligations;
 - (e) The employee and the domestic partner are not married to, joined in civil union with, or domestic partners with anyone else;
 - (f) The employee and the domestic partner are same-sex domestic partners, and are not related in a way that would prohibit legal marriage in the state in which they reside;
 - (g) The employee agrees to inform the Peace Corps of any dissolution of the partnership in accordance with 8.0 below;
 - (h) The employee understands that the domestic partner will be held to standards of conduct that apply to family members, including those adopted by Peace Corps in MS 641.8 and set out in 3 FAM 4120;
 - (i) The employee understands that the domestic partner will be subject to the reviews under MS 611 relating to any intelligence background of family members; and
 - (j) The employee understands that falsification of information within the affidavit may constitute a criminal violation under 18 U.S.C. 1001 and may lead to disciplinary action.

8.0 Dissolution of a Domestic Partnership

An employee who obtains benefits under the Peace Corps Manual based on a domestic partnership must file with HR or their contracting officer as applicable, a statement of dissolution of the domestic partnership not later than 30 days after the death of the domestic partner or the date of dissolution of the domestic partnership.

9.0 Additional Information

- (a) Declared domestic partners will be subject to the reviews under MS 611 relating to of any intelligence background of family members.
- (b) Declared domestic partners will be held to the standards of conduct that apply to family members, including those adopted by Peace Corps in MS 641.8 and set out in 3 FAM 4120.
- (c) Declared domestic partners will be subject to the provisions in MS 642.8 (change in family status) as applicable.
- (d) Declared domestic partners who are U.S. citizens may be eligible for official passports. Eligibility for visas and work permits are subject to local law and the host government. Peace Corps will coordinate with the Embassy on these issues, but receipt cannot be guaranteed.
- (e) Coverage under the State Department's Medical and Health program requires a medical clearance and health insurance coverage. See 16 FAM 120, 520.

10.0 Phase-Out of Benefits for Domestic Partners

10.1 Phase-Out Dates

To minimize any negative effects that an abrupt end to the program might have on employees currently receiving benefits under this Manual Section, the benefits under this Manual Section will begin phasing out December 1, 2016, and terminate on September 30, 2018.

10.2 Termination of Enrollment

After December 1, 2016, employees will no longer be allowed to file for benefits under this Manual Section. With federal benefits now available to legally married same-sex couples, marriage will henceforth be a prerequisite for any employee to receive federal benefits previously available under this Manual Section.

10.3 Employees Currently at Post

An employee, who is receiving benefits under this Manual Section and is already at post, will continue to receive such benefits through the end of the overseas tour, including end-of-tour home leave, or until September 30, 2018, whichever date is sooner.

10.4 Transferring Employees

If an employee, who is receiving benefits under this Manual Section, transfers between overseas posts or to an overseas post from the United States and arrives at post before November 1, 2016, the employee will continue to receive such benefits through the end of the new overseas tour, including end-of-tour home leave, or until September 30, 2018, whichever date is sooner.

10.5 Hardship Exception

An employee with unusual circumstances not covered by the phase-out criteria described above may make a written request to the Chief Human Capital Officer in the Office of Human Resources for an extension of the benefits under this Manual Section.

10.6 Administrative Leave for Marriage

- (a) Although employees can now marry in the United States, the worldwide nature of the Peace Corps work does present situations where access to legal marriage is not immediately available to a same-sex or, occasionally, an opposite-sex couple assigned overseas.
- (b) Employees serving overseas in a country without access to legal marriage who wish to marry may request up to 10 days of administrative leave for travel to the United States or a third country where they can legally marry.
- (c) This administrative leave will be available not only to employees currently receiving benefits under this Manual Section, but to all overseas employees.

11.0 Effective Date

The effective date of this Manual Section is the date of issuance.