

BP 7380 RETIREE HEALTH BENEFITS

References:

Education Code Sections 7000 et seq.;

Family Code Sections 297, 298, 298.5, 297.5, 299, 299.2, and 299.3

NOTE: The following language in red ink is legally required.

The District shall permit any former academic employee who is retiring from the District to enroll in the health and welfare benefit plan or dental care benefit plan currently provided to its current academic employees. In addition, the District shall also permit the enrollment of the surviving spouse/domestic partner of a former academic employee who either retired from the District or was, at the time of his/her death, employed by the District as an academic employee and a member of the State Teacher's Retirement System.

Enrollment pursuant to this policy shall be at the retiree or surviving spouse's/domestic partner's own expense.

A retired academic employee or surviving spouse/domestic partner may enroll in the District's health and welfare benefit plans only once pursuant to this policy. A retired academic employee or surviving spouse/domestic partner who voluntarily terminates coverage under this policy may be excluded from obtaining coverage again.

The Chancellor shall establish procedures as may be deemed necessary to administer this policy in accordance with Education Code Sections 7000 et seq.

- ❖ **From the current CLPCCD Policy 4032 titled Group Medical Insurance for Retirees**

THE REMAINDER OF THIS POLICY APPLIES TO CONFIDENTIALS, SUPERVISORS AND ADMINISTRATORS.

Group Medical Insurance for Retirees – with the following hire dates:

- For Classified Personnel Hired Before July 1, 1984
- For Confidential/Supervisory Personnel Hired Before October 1, 1984

• For Management/Faculty Hired Before April 1, 1986

1. The District will continue to pay the full cost of the District's group medical insurance plan(s) for each employee and spouse or approved domestic partner defined by California Family Code section 297 following retirement of the employee, provided that the employee has rendered full-time service to the District at the age of retirement, including the five (5) years immediately preceding retirement, as follows:

<u>Full-time Service Minimum</u>	<u>Age at Retirement</u>
15 years	55 years
14 years	56 years
13 years	57 years
12 years	58 years
11 years	59 years
10 years	60 years

The employee is responsible for any costs associated with deductibles or co-payments.

A District-approved leave of absence to a maximum of one (1) school year within the past five (5) years shall be computed as fulfilling one (1) year of full-time required service. Further, an employee who is released from his or her position for reasons other than for cause and who is subsequently rehired by the District within one year of release shall not have the intervening time counted as a break in service.

2. A "retired" employee shall be defined as one who has retired from service and who is eligible for or is receiving a retirement allowance from the State Teachers' Retirement System or the Public Employees' Retirement System.

Benefits

Benefits will continue during the life of the retiree. Upon the death of the retiree, the spouse may continue group coverage at his/her own expense and with advance payments as determined by the District. When two (2) employees of this employer who are married retire, the District will pay the cost of only one (1) medical insurance plan, to continue during their lifetimes.

The retired employee may pay the additional premium(s) necessary to provide coverage for eligible dependents other than spouse.

Effective January 1, 1998 the following process shall be followed:

- a. When an eligible employee notifies the District of his/her intent to retire, the District will provide the employee information relating to retirement benefits. At the time of retirement, the retiree must be enrolled in a District group medical

insurance plan, and be eligible for continuance under any special requirements which are part of that plan.

- b. When a retired employee or spouse who has been determined to be Medicare A eligible reaches the age of sixty-five (65), it is understood that they must enroll in both Medicare Part A and Part B during their initial enrollment period as specified by the Social Security Administration. To be eligible for the District paid Medicare Risk HMO or the Medicare Supplement (PPO), the retiree or spouse must enroll in the District program at the time of enrollment in Medicare Part A and Part B. The District will pay for Part B. If the retiree and/or his/her spouse are ineligible, he/she must show proof of the ineligibility.

Medical insurance plans can be changed from one company to another by the retiree under age 65 years once during the annual enrollment-period established by the District. Changes between companies for retirees age 65 years and older will be subject to the policies in effect at that time by the insurance companies providing medical coverage.

Retirees who waive their rights to insurance benefits are ineligible for future reenrollment for benefits.

It is the retiree's responsibility to notify the District of family status changes which may affect insurance coverage. Failure to notify the District of such changes shall cause the retiree to be responsible for the cost of the insurance coverage for any period of time from the change thereafter.

❖ **From the current CLPCCD BP 4033 titled Group Medical Insurance for Retirees**

Group Medical Insurance for Retirees with the following hire dates:

- **For Classified Personnel Hired After July 1, 1984 through December 31, 2012**
- **For Confidential/Supervisory Personnel Hired After October 1, 1984 through December 31, 2012**
- **For Management/Faculty Hired After April 1, 1986 through December 31, 2012**

All eligible employees hired on or after January 1, 2013 will be subject only to the District's current Health Reimbursement Account.

- a. The District shall contribute \$200 monthly to the HRA of each full-time confidential, supervisory, and administrative employee. The monies placed in their account will earn interest which will be credited to his/her account;
- b. The employee's rights to the money the District deposited in the HRA shall vest in five (5) years from the date of hire of the employee;

A "retired" employee shall be defined as one who has retired from District service and who is eligible for, or is receiving a retirement allowance from the State Teachers' Retirement System or the Public Employees' Retirement System.

Effective January 1, 1998 all eligible employees shall be able to participate in District group medical retirement benefits under the conditions stated, subject to the following understanding:

- a. When an eligible employee notifies the District of his/her intent to retire, the District will provide the employee with information relating to retirement benefits. At the time of retirement, the retiree must be enrolled in a District group medical insurance plan, and be eligible under any special requirements which are part of that plan.
 - b. The District recognizes that carriers, plans, and coverages available to retirees may change in the future. Retirees will be allowed to continue enrollment in District plans that are available to active employees at any time in future years, subject to any restrictions imposed as stated in 2a. It is understood that if in some future year, any of the current carriers are changed, the District does not have an obligation to replicate the coverage provided by a lost carrier. Additionally, it is understood that the District's obligation does not include maintenance of a particular coverage that was available when the retiree left the District.
3. The coverage limits for eligible retirees under the age of sixty-five are follows:
- a. District premium payment limits are based upon paid medical coverage provided to active employees. The District contribution to the payment of health benefits for an active employee is limited to an amount equivalent to the cost of the most expensive Health Maintenance Organization (HMO) plan(s) available to active employees during any particular year.
 - b. The District contribution toward group medical coverage for the retiree and spouse, until the effected retiree or spouse reaches age sixty-five or otherwise becomes eligible for Medicare coverage, shall be limited to a percentage of the maximum health benefits premium as cited in 3a. This percentage is determined from the table shown below. This table, based upon years of service in the District and age at retirement, shows the percentage of the premium to be paid by the retiree. Beginning July 1, 2002 the retiree's co-payment shall continue at this percentage level until the retiree reaches age sixty (60) or age of retirement, whichever is later, at which time the premium cost to employee shall freeze and remain at that maximum amount and not be increased. Any required co-payments must be made in advance to the District in order for coverage to continue.

**Schedule of Percentage Co-payments
Based on Active Employee-Paid Level of Medical Premium**

**Age
at**

Retirement

Years of Service

	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30
55	X	X	X	X	X	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0
56	X	X	X	X	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0	0
57	X	X	X	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0	0	0
58	X	X	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0	0	0	0
59	X	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0
60	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0
61	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0
62	65	60	55	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0
63	60	55	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0
64	55	50	45	40	35	30	25	20	15	10	5	0	0	0	0	0	0	0	0	0	0
65	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

The table is based on the following rule:

If age plus years of service ≥ 85 , then there is no co-payment. Each decrease of one year in either age or years of service, increases co-payment by 5%.

Squares that show an X mean that the retiree does not qualify for retirement medical coverage. (See paragraph c below.)

Example: An employee retires at age 60 with 23 years of service. The co-payment is ten-percent (10%) of the covered cost of medical benefits. (See 3. for limits in coverage). This co-payment continues until age 65. At age 65, the retiree must enroll in Medicare Parts A and B. The District pays for Medicare Part B, and a District-approved Medicare Risk HMO plan.

- c. It is further understood that all retirees must meet the same conditions for continuous service before retirement in order to qualify for District group medical benefits, namely, that the employee has rendered full-time service to the District at the age of retirement, including the five (5) years immediately preceding retirement, as follows:

Full-time Service

Minimum Age at Retirement

- 15 years
- 14 years
- 13 years
- 12 years
- 11 years
- 10 years

- 55 years
- 56 years
- 57 years
- 58 years
- 59 years
- 60 years

The employee is responsible for any costs associated with deductible or co-payments.

- d. District-approved leave of absence to a maximum of one (1) school year within the past five (5) years shall be computed as fulfilling one (1) year of full-time required service.
4. The medical coverage for eligible retirees upon reaching age sixty-five is understood that Medicare regulations under Federal Law may change over time, and that these regulations take precedence over this agreement in case of conflicting language.

A retiree must enroll in Medicare Parts A and B during his or her initial Enrollment period as specified by the Social Security Administration. If the retiree and/or his/her spouse are ineligible, he/she must show proof of the ineligibility. The District shall pay for Medicare Part B and a District-approved Medicare Risk HMO plan. The District's payment will be limited to the highest Medicare Risk HMO. If the retiree wants the Medicare Supplement (PPO), the retiree must pay the difference.

If a retiree fails to enroll in Medicare Parts A and B during the Medicare Initial Enrollment Period, as specified above, he or she must cover all penalties, financial and otherwise for this delay.

Furthermore, upon reaching age sixty-five (65), the spouse of a retiree must also enroll in Medicare Parts A and B during his or her initial enrollment period as specified by the Social Security Administration, if the spouse wishes to continue group coverage under a District-sponsored group plan.

If the spouse of a retiree fails to enroll in Medicare Parts A and B during his/her Medicare Initial Enrollment Period, as specified above, he or she must cover all penalties, financial and otherwise, for this delay.

If the retiree or spouse enrolls in Medicare and the other is not yet eligible for Medicare, then the one who is not eligible can continue group coverage at the rates charged the retiree under 3b until the spouse reaches age 65 or otherwise becomes eligible for Medicare coverage.

5. Benefits will continue during the life of the retiree. Upon the death of the retiree, the retiree's spouse may continue group coverage at his/her own expense and with advance payments as determined by the District, subject to the following:

Upon reaching age sixty-five (65), the spouse of a deceased retiree must also enroll in Medicare Parts A and B during his or her initial enrollment period as specified by the Social Security Administration, if the spouse wishes to continue group coverage under a District-sponsored group plan at his/her own expense.

If the spouse of a deceased retiree fails to enroll in Medicare Parts A and B during his/her Medicare Initial Enrollment Period, as specified above, he or she must cover all penalties, financial and otherwise, for this delay.

6. When two District employees who are married retire, the District will pay the cost of only one medical insurance plan, to continue during their lifetimes. Should one or both employees be required to make a co-payment, this co-payment shall be the lesser of the two. If one is deceased, then the spouse can continue the District insurance plan based on his/her own earned rights for insurance.
7. The retired employee may pay the additional premium(s) necessary to provide coverage for eligible dependents other than the spouse.
8. Medical insurance plans can be changed from one company to another by the retiree once each year during the annual opening enrollment period established by the District. Changes between health carriers for retirees will be subject to the policies in effect at that time by the carriers providing medical coverage.
9. Retirees who waive their rights to insurance benefits are ineligible for future reenrollment for benefits.
10. It is the retiree's responsibility to notify the District of family status changes which may affect insurance coverage. Failure to notify the District of such changes shall cause the retiree to be responsible for the cost of the insurance coverage for any period of time from the change thereafter.

❖ **From the current CLPCCD Policy 4034 titled Group Medical Insurance for Retirees Due to Disability**

Group Medical Insurance for Retirees Due to Disability with the following hire dates:

- For Classified Personnel Hired Before July 1, 1984
 - For Confidential/Supervisory Personnel Hired Before October 1, 1984
 - For Management/Faculty Hired Before April 1, 1986
1. The District will continue to pay the cost of a District group medical insurance plan for each permanent member of the classified service employee and spouse following retirement and resignation of the employee from District service due to disability, provided that the employee has attained the age of fifty (50) and has rendered ten (10) years' full-time service to the District at the age of retirement, including the five (5) years immediately preceding retirement. A District-approved leave of absence to a maximum of one (1) school year within the past

five (5) years shall be computed as fulfilling one (1) year of full-time required service.

2. A "disability-retired" employee shall be defined as one who has involuntarily retired from service and resigned from the District due to disability and who is eligible for or is receiving a disability retirement allowance from the State Teachers' Retirement System or the Public Employees' Retirement System.
3. A disability retiree who meets the minimum service requirements of ten (10) years' full-time service, including the five (5) years immediately preceding retirement, but who has not attained the age of fifty (50) years at the time of retirement, may continue to receive medical insurance coverage from the District if the employee chooses to continue coverage and agrees to pay quarterly the full amount of premium due to the District in one (1) advance quarterly payment. If such premium payments are continued without break by the employee until attainment of age fifty (50), the District shall at that time assume the full premium cost.
4. Benefits will continue during the life of the disability retiree. If said retiree's spouse is employed by the District, in no instance will the District pay more than the premium cost for one (1) medical plan covering employee and spouse.
5. The disability-retired employee may pay the additional premium(s) necessary to provide coverage for eligible dependents other than spouse, to be made by quarterly advance payments to the District.
6. Where authorized under the above provisions, the District will pay the full cost of the District's medical plan, for the eligible retired member and spouse or will pay the premium(s) which will replace or supplement Medicare, for disability retirees at the time the disability retiree becomes Medicare-eligible. Disability retirees eligible for Medicare must enroll in all parts for which they are eligible. Changes between companies for employees age sixty-five (65) and older will be subject to the policies in effect at that time by the insurance companies providing medical coverage.

[Information on retiree health benefits for represented employees can be found in the respective collective bargaining agreement.](#)

NOTE: The **red ink** signifies language that is **legally required** and recommended by the Policy and Procedure Service and its legal counsel. The language in **black ink** is from the current CLPCCD Policy 4032 titled Group Medical Insurance for Retirees adopted on March 19, 1996 and revised on May 20, 2003; current CLPCCD Policy 4033 titled Group Medical Insurance for Retirees adopted on February 16, 1999 and revised on February 19, 2013; and current CLPCCD Policy 4034 titled Group Medical Insurance for Retirees Due to Disability adopted on March 19, 1996. The language in **green ink** was added by David and Kit on October 7, 2013. The language in **blue ink** was added by David on May 13, 2015.

Date Adopted:

*(This policy replaces current CLPCCD
Policies 4032, 4033, and 4034)*

Legal Citations for BP 7380

Education Code Sections 7000 et seq.

EDUCATION CODE - EDC

TITLE 1 GENERAL EDUCATION CODE PROVISIONS [1. - 32500]

(Title 1 enacted by Stats. 1976, Ch. 1010.)

DIVISION 1 GENERAL EDUCATION CODE PROVISIONS [1. - 32500]

(Division 1 enacted by Stats. 1976, Ch. 1010.)

PART 5. PUBLIC SCHOOL PERSONNEL [7000 - 7058]

(Part 5 enacted by Stats. 1976, Ch. 1010.)

CHAPTER 1. Personnel General Provisions [7000 - 7058]

(Chapter 1 enacted by Stats. 1976, Ch. 1010.)

ARTICLE 1. Health and Welfare Benefits [7000 - 7008]

(Article 1 added by Stats. 1985, Ch. 991, Sec. 1.)

7000.

(a) Notwithstanding Article 1 (commencing with Section 53200) of Chapter 2 of Part 1 of Division 2 of Title 5 of the Government Code, a county superintendent of schools, a school district, or a community college district, which provides health and welfare benefits or dental care benefits for the benefit of its certificated employees, shall permit enrollment in, respectively, **the health and welfare benefit plan** or **dental care benefit plan** currently provided for its current certificated employees by any former certificated employee thereof who retired therefrom under any public retirement system and his or her spouse and by any surviving spouse of a former certificated employee thereof who either retired therefrom under any public retirement system or was, at the time of death, both employed thereby in a position requiring contributions to the State Teachers' Retirement System and a member of the State Teachers' Retirement System.

This subdivision does not apply to either the new spouse upon the remarriage of a surviving spouse of a former certificated employee or the children of a certificated or former certificated employee.

(b) A county superintendent of schools or district may develop an experience claims rating for the persons specified in subdivision (a) and may, if appropriate, require those persons to pay different rates as a class. Any plan pursuant to this article shall provide separate single and two-party rates for at least the following classes: for those under 65, for those over 65 who have Medicare A and B, and for those over 65 who do not have Medicare A.

(c) The county superintendent of schools, school district, or community college district shall annually select a one-month period during which persons described by subdivision (a) may elect to enroll in, respectively, the health and welfare benefit plan or the dental care benefit plan or change their enrollment from one to another health and welfare plan or dental care benefit plan, respectively.

(d) A certificated school employee who retired on or before August 24, 1986, the effective date of Chapter 561 of the Statutes of 1986, or the surviving spouse of a certificated employee retired as of August 25, 1986, shall be permitted to enroll in any district health and dental care plan during the 1986, 1987, and 1988 enrollment periods.

(e) A certificated school employee who retires after August 24, 1986, the effective date of Chapter 561 of the Statutes of 1986, or the surviving spouse of a certificated employee retired as of August 25, 1986, shall be allowed to enroll in the coverage provided by this article within 30 days of losing active employee coverage, but if the retiree does not enroll in a district health or dental care plan during this initial enrollment period, the retiree may be denied further opportunity to do so.

The enrollment period for retirees under this subdivision shall correspond to that provided to active employees, unless a district chooses to offer an additional enrollment period.

(f) This article shall permit enrollment into any district health and dental care plan only once. A retiree or spouse or surviving spouse of a certificated employee who has been previously covered under this article and who has voluntarily terminated that coverage, thereafter may be excluded from obtaining coverage under this article. This subdivision does not apply to a person who is changing plans within a district during an open enrollment period.

(g) Retirees or surviving spouses of certificated employees may be enrolled in a medical care plan pursuant to this section during periods other than those specified therein if they lose their coverage. With documentation of prior coverage, they may be allowed to enroll in a medical care plan, if they do so within 31 days of losing their other coverage.

(h) Any person described by subdivision (a) who elects, pursuant to this article, to be covered by, respectively, a health and welfare benefit plan or dental care benefit plan, may be required to pay all premiums, dues, and other charges, including any increases in the rate of premiums or dues for these persons, and all costs incurred by the district or county superintendent of schools in administering this article.

(Amended by Stats. 1990, Ch. 1372, Sec. 42.)

7000.3. Enrollment in Medicare A shall not be a prerequisite for enrollment in any district health plan pursuant to this article. However, the purchase of Medicare B may be required for enrollment if the participant qualifies to purchase it. In addition, a district health plan may be restructured to pay benefits as if each participant is enrolled in Medicare B as soon as the participant qualifies to purchase Medicare B.

A health plan may condition eligibility for enrollment on the effective assignment of any Medicare benefits for which the enrollee would be eligible.

7000.5. (a) Any health benefits plan provided by any county superintendent of schools, school district, or community college district pursuant to this article may contain a preexisting condition exclusion, as follows:

(1) The coverage of any person who has a break in coverage, may, for the first three months after reenrollment, exclude any care received for a condition which is caused by, or results from, a condition existing at the time of reenrollment or for which the person received medical advice or treatment during the six-month period immediately preceding reenrollment.

(2) Coverage of any person who is confined to a hospital or his or her home for medical treatment at the time of enrollment in a health plan pursuant to this section shall exclude any benefits until the period commencing on the 15th day following the termination of that confinement.

(b) This section does not apply to any entity which provides a health benefits plan which contains a preexisting condition exclusion.

(c) This section does not apply to any changes in enrollment by a person currently enrolled in a school district's health benefits plan or due to any change in enrollment or coverage caused by the retirement of a person.

7002.5. (a) This article does not create a vested retirement right in health and dental care benefits.

(b) The individual districts, the county office, a health plan, an entity proving or arranging a health plan, and the State Teachers' Retirement System do not have any legal duty to contact retired teachers or surviving spouses of certificated employees with regard to this article.

7003. (a) Nothing in this article shall be construed as requiring or permitting the impairment of any contract, board rule, or regulation affecting retired certificated personnel, in existence on the effective date of this article.

(b) Nothing in this article is intended to reduce or conflict with any benefit provided in the federal Consolidated Omnibus Budget Reconciliation Act of 1986 (Public Law 99-272).

(c) Nothing in this article mandates the provision of life insurance or vision care.

7004. As used in this article:

(a) "Certificated employee" means a member, as defined by Section 22146, of the State Teachers' Retirement System.

(b) "School district" means that district from which the member of the State Teachers' Retirement System last made contributions to the system before retirement.

(c) "Spouse" means a spouse as defined by Section 22171.

7005. This article does not apply to persons receiving benefits pursuant to the Public Employees' Medical and Hospital Care Act (Chapter 1 (commencing with Section 22750) of Part 5 of Division 5 of Title 2 of the Government **Code**) and to the employers on which their benefits are based.

For purposes of this section, "employer" means a county superintendent of schools, a school district, or a community college district irrespective of whether employees may be represented by different bargaining groups. Notwithstanding any other provision of this part, this article does not apply to employers for those groups of employees for whom coverage under the Public Employees' Medical and Hospital Care Act (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Gov't **Code**) is provided by contract.

7007. (a) Any qualified organization, as defined in subdivision (b), in cooperation with the Public Employees' Retirement System, may develop a health benefits plan which would be available to persons who are members of those organizations, with equal premiums for both active and retired teachers. The plan would be available, on an optional basis, to each school district, county board of **education**, and a county superintendent of schools which becomes a contracting agency with the Public Employees' Retirement System pursuant to Section 22857 of the Government **Code**.

(b) "Qualified organization" means an exclusive representative of the certificated or classified employees, as defined by Section 3540.1 of the Government **Code**, or any organization with a membership of at least 1,000 members who are retirees of the State Teachers' Retirement System, or any organization with a membership of at least 1,000 members who are faculty members in the California Community Colleges.

(c) This section shall not apply to any contracting agency unless and until the agency elects to be subject to this section pursuant to Section 22857 of the Government **Code**.

7008. (a) Notwithstanding any other provision of law, a member of the Defined Benefit Program of the State Teachers' Retirement Plan who is disabled as a result of an injury that is a direct consequence of a violent act perpetrated on his or her person while performing duties in the scope of employment, and the employment is creditable under the provisions of the Teachers' Retirement Law (Part 13 (commencing with Section 22000)), may, upon qualifying for a disability under Section 24001 and while receiving an allowance under Section 24002, continue in the district's health care plan and dental care plan by paying all of the employer's and employee's premiums and all of the related administrative costs of the employer.

(b) Notwithstanding any other provision of law, a school member as defined in Section 20370 of the Government **Code**, or a local police officer as defined in Section 20430 of the Government **Code**, who is disabled as a result of an injury that is a direct consequence of a violent act perpetrated on his or her person while performing duties in the scope of employment, and the employment is creditable under the Public Employees' Retirement Law (Part 3 (commencing with Section 20000) of Division 5 of Title 2 of the Government **Code**), may, upon qualifying for a disability and while receiving an allowance under Chapter 12 (commencing with Section 21060) of Part 3 of

Division 5 of Title 2 of the Government **Code**, continue in the employer's health care plan and dental care plan by paying all of the employer's and employee's premiums and all of the related administrative costs of the employer.

(c) Subdivisions (a) and (b) do not apply to any member who is employed by a school district that contracts with the Public Employees' Retirement System for health care coverage under the Public Employees' Medical and Health Care Act, (Part 5 (commencing with Section 22750) of Division 5 of Title 2 of the Government **Code**).

Family Code Sections 297, 297.5, 298, 298.5, 299, 299.2, and 299.3

297. (a) Domestic partners are two adults who have chosen to share one another's lives in an intimate and committed relationship of mutual caring.

(b) A domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership with the Secretary of State pursuant to this division, and, at the time of filing, all of the following requirements are met:

(1) Both persons have a common residence.

(2) Neither person is married to someone else or is a member of another domestic partnership with someone else that has not been terminated, dissolved, or adjudged a nullity.

(3) The two persons are not related by blood in a way that would prevent them from being married to each other in this state.

(4) Both persons are at least 18 years of age.

(5) Either of the following:

(A) Both persons are members of the same sex.

(B) One or both of the persons meet the eligibility criteria under Title II of the Social Security Act as defined in 42 U.S.C. Section 402(a) for old-age insurance benefits or Title XVI of the Social Security Act as defined in 42 U.S.C. Section 1381 for aged individuals. Notwithstanding any other provision of this section, persons of opposite sexes may not constitute a domestic partnership unless one or both of the persons are over the age of 62.

(6) Both persons are capable of consenting to the domestic partnership.

(c) "Have a common residence" means that both domestic partners share the same residence. It is not necessary that the legal right to possess the common residence be in both of their names. Two people have a common residence even if one or both have additional residences. Domestic partners do not cease to have a common residence if one leaves the common residence but intends to return.

297.5. (a) Registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon spouses.

(b) Former registered domestic partners shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources

of law, as are granted to and imposed upon former spouses.

(c) A surviving registered domestic partner, following the death of the other partner, shall have the same rights, protections, and benefits, and shall be subject to the same responsibilities, obligations, and duties under law, whether they derive from statutes, administrative regulations, court rules, government policies, common law, or any other provisions or sources of law, as are granted to and imposed upon a widow or a widower.

(d) The rights and obligations of registered domestic partners with respect to a child of either of them shall be the same as those of spouses. The rights and obligations of former or surviving registered domestic partners with respect to a child of either of them shall be the same as those of former or surviving spouses.

(e) To the extent that provisions of California law adopt, refer to, or rely upon, provisions of federal law in a way that otherwise would cause registered domestic partners to be treated differently than spouses, registered domestic partners shall be treated by California law as if federal law recognized a domestic partnership in the same manner as California law.

(f) Registered domestic partners shall have the same rights regarding nondiscrimination as those provided to spouses.

(g) Notwithstanding this section, in filing their state income tax returns, domestic partners shall use the same filing status as is used on their federal income tax returns, or that would have been used had they filed federal income tax returns. Earned income may not be treated as community property for state income tax purposes.

(h) No public agency in this state may discriminate against any person or couple on the ground that the person is a registered domestic partner rather than a spouse or that the couple are registered domestic partners rather than spouses, except that nothing in this section applies to modify eligibility for long-term care plans pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2 of the Government Code.

(i) This act does not preclude any state or local agency from exercising its regulatory authority to implement statutes providing rights to, or imposing responsibilities upon, domestic partners.

(j) This section does not amend or modify any provision of the California Constitution or any provision of any statute that was adopted by initiative.

(k) This section does not amend or modify federal laws or the benefits, protections, and responsibilities provided by those laws.

(l) Where necessary to implement the rights of registered domestic partners under this act, gender-specific terms referring to spouses shall be construed to include domestic partners.

(m) (1) For purposes of the statutes, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, and benefits, and the responsibilities, obligations, and duties of registered domestic partners in this state, as effectuated by this section, with respect to community property, mutual responsibility for debts to third parties, the right in particular circumstances of either partner to seek financial support from the other following the dissolution of the partnership, and other rights and duties as between the partners concerning ownership of property, any reference to the date of a marriage shall be deemed to refer to the date of registration of a domestic partnership with the state.

(2) Notwithstanding paragraph (1), for domestic partnerships

registered with the state before January 1, 2005, an agreement between the domestic partners that the partners intend to be governed by the requirements set forth in Sections 1600 to 1620, inclusive, and which complies with those sections, except for the agreement's effective date, shall be enforceable as provided by Sections 1600 to 1620, inclusive, if that agreement was fully executed and in force as of June 30, 2005.

298. (a) The Secretary of State shall prepare forms entitled "Declaration of Domestic Partnership" and "Notice of Termination of Domestic Partnership" to meet the requirements of this division. These forms shall require the signature and seal of an acknowledgment by a notary public to be binding and valid.

(b) (1) The Secretary of State shall distribute these forms to each county clerk. These forms shall be available to the public at the office of the Secretary of State and each county clerk.

(2) The Secretary of State shall, by regulation, establish fees for the actual costs of processing each of these forms, and the cost for preparing and sending the mailings and notices required pursuant to Section 299.3, and shall charge these fees to persons filing the forms.

(c) The Declaration of Domestic Partnership shall require each person who wants to become a domestic partner to (1) state that he or she meets the requirements of Section 297 at the time the form is signed, (2) provide a mailing address, (3) state that he or she consents to the jurisdiction of the Superior Courts of California for the purpose of a proceeding to obtain a judgment of dissolution or nullity of the domestic partnership or for legal separation of partners in the domestic partnership, or for any other proceeding related to the partners' rights and obligations, even if one or both partners ceases to be a resident of, or to maintain a domicile in, this state, (4) sign the form with a declaration that representations made therein are true, correct, and contain no material omissions of fact to the best knowledge and belief of the applicant, and (5) have a notary public acknowledge his or her signature. Both partners' signatures shall be affixed to one Declaration of Domestic Partnership form, which form shall then be transmitted to the Secretary of State according to the instructions provided on the form. Filing an intentionally and materially false Declaration of Domestic Partnership shall be punishable as a misdemeanor.

298.5. (a) Two persons desiring to become domestic partners may complete and file a Declaration of Domestic Partnership with the Secretary of State.

(b) The Secretary of State shall register the Declaration of Domestic Partnership in a registry for those partnerships, and shall return a copy of the registered form and a Certificate of Registered Domestic Partnership to the domestic partners at the mailing address provided by the domestic partners.

(c) No person who has filed a Declaration of Domestic Partnership may file a new Declaration of Domestic Partnership or enter a civil marriage with someone other than their registered domestic partner unless the most recent domestic partnership has been terminated or a final judgment of dissolution or nullity of the most recent domestic partnership has been entered. This prohibition does not apply if the

previous domestic partnership ended because one of the partners died.

299. (a) A registered domestic partnership may be terminated without filing a proceeding for dissolution of domestic partnership by the filing of a Notice of Termination of Domestic Partnership with the Secretary of State pursuant to this section, provided that all of the following conditions exist at the time of the filing:

(1) The Notice of Termination of Domestic Partnership is signed by both registered domestic partners.

(2) There are no children of the relationship of the parties born before or after registration of the domestic partnership or adopted by the parties after registration of the domestic partnership, and neither of the registered domestic partners, to their knowledge, is pregnant.

(3) The registered domestic partnership is not more than five years in duration.

(4) Neither party has any interest in real property wherever situated, with the exception of the lease of a residence occupied by either party which satisfies the following requirements:

(A) The lease does not include an option to purchase.

(B) The lease terminates within one year from the date of filing of the Notice of Termination of Domestic Partnership.

(5) There are no unpaid obligations in excess of the amount described in paragraph (6) of subdivision (a) of Section 2400, as adjusted by subdivision (b) of Section 2400, incurred by either or both of the parties after registration of the domestic partnership, excluding the amount of any unpaid obligation with respect to an automobile.

(6) The total fair market value of community property assets, excluding all encumbrances and automobiles, including any deferred compensation or retirement plan, is less than the amount described in paragraph (7) of subdivision (a) of Section 2400, as adjusted by subdivision (b) of Section 2400, and neither party has separate property assets, excluding all encumbrances and automobiles, in excess of that amount.

(7) The parties have executed an agreement setting forth the division of assets and the assumption of liabilities of the community property, and have executed any documents, title certificates, bills of sale, or other evidence of transfer necessary to effectuate the agreement.

(8) The parties waive any rights to support by the other domestic partner.

(9) The parties have read and understand a brochure prepared by the Secretary of State describing the requirements, nature, and effect of terminating a domestic partnership.

(10) Both parties desire that the domestic partnership be terminated.

(b) The registered domestic partnership shall be terminated effective six months after the date of filing of the Notice of Termination of Domestic Partnership with the Secretary of State pursuant to this section, provided that neither party has, before that date, filed with the Secretary of State a notice of revocation of the termination of domestic partnership, in the form and content as shall be prescribed by the Secretary of State, and sent to the other party a copy of the notice of revocation by first-class mail, postage prepaid, at the other party's last known address. The effect of termination of a domestic partnership pursuant to this section shall be the same as, and shall be treated for all purposes as, the entry of a judgment of dissolution of a domestic partnership.

(c) The termination of a domestic partnership pursuant to

subdivision (b) does not prejudice nor bar the rights of either of the parties to institute an action in the superior court to set aside the termination for fraud, duress, mistake, or any other ground recognized at law or in equity. A court may set aside the termination of domestic partnership and declare the termination of the domestic partnership null and void upon proof that the parties did not meet the requirements of subdivision (a) at the time of the filing of the Notice of Termination of Domestic Partnership with the Secretary of State.

(d) The superior courts shall have jurisdiction over all proceedings relating to the dissolution of domestic partnerships, nullity of domestic partnerships, and legal separation of partners in a domestic partnership. The dissolution of a domestic partnership, nullity of a domestic partnership, and legal separation of partners in a domestic partnership shall follow the same procedures, and the partners shall possess the same rights, protections, and benefits, and be subject to the same responsibilities, obligations, and duties, as apply to the dissolution of marriage, nullity of marriage, and legal separation of spouses in a marriage, respectively, except as provided in subdivision (a), and except that, in accordance with the consent acknowledged by domestic partners in the Declaration of Domestic Partnership form, proceedings for dissolution, nullity, or legal separation of a domestic partnership registered in this state may be filed in the superior courts of this state even if neither domestic partner is a resident of, or maintains a domicile in, the state at the time the proceedings are filed.

299.2. A legal union of two persons of the same sex, other than a marriage, that was validly formed in another jurisdiction, and that is substantially equivalent to a domestic partnership as defined in this part, shall be recognized as a valid domestic partnership in this state regardless of whether it bears the name domestic partnership.

299.3. (a) On or before June 30, 2004, and again on or before December 1, 2004, and again on or before January 31, 2005, the Secretary of State shall send the following letter to the mailing address on file of each registered domestic partner who registered more than one month prior to each of those dates: "Dear Registered Domestic Partner:

This letter is being sent to all persons who have registered with the Secretary of State as a domestic partner.

Effective January 1, 2005, California's law related to the rights and responsibilities of registered domestic partners will change (or, if you are receiving this letter after that date, the law has changed, as of January 1, 2005). With this new legislation, for purposes of California law, domestic partners will have a great many new rights and responsibilities, including laws governing community property, those governing property transfer, those regarding duties of mutual financial support and mutual responsibilities for certain debts to third parties, and many others. The way domestic partnerships are terminated is also changing. After January 1, 2005, under certain circumstances, it will be necessary to participate in a dissolution proceeding in court to end a domestic partnership.

Domestic partners who do not wish to be subject to these new

rights and responsibilities MUST terminate their domestic partnership before January 1, 2005. Under the law in effect until January 1, 2005, your domestic partnership is automatically terminated if you or your partner marry or die while you are registered as domestic partners. It is also terminated if you send to your partner or your partner sends to you, by certified mail, a notice terminating the domestic partnership, or if you and your partner no longer share a common residence. In all cases, you are required to file a Notice of Termination of Domestic Partnership.

If you do not terminate your domestic partnership before January 1, 2005, as provided above, you will be subject to these new rights and responsibilities and, under certain circumstances, you will only be able to terminate your domestic partnership, other than as a result of your domestic partner's death, by the filing of a court action.

Further, if you registered your domestic partnership with the state prior to January 1, 2005, you have until June 30, 2005, to enter into a written agreement with your domestic partner that will be enforceable in the same manner as a premarital agreement under California law, if you intend to be so governed.

If you have any questions about any of these changes, please consult an attorney. If you cannot find an attorney in your locale, please contact your county bar association for a referral. Sincerely, The Secretary of State"

(b) From January 1, 2004, to December 31, 2004, inclusive, the Secretary of State shall provide the following notice with all requests for the Declaration of Domestic Partnership form. The Secretary of State also shall attach the Notice to the Declaration of Domestic Partnership form that is provided to the general public on the Secretary of State's Web site:

"NOTICE TO POTENTIAL DOMESTIC PARTNER REGISTRANTS

As of January 1, 2005, California's law of domestic partnership will change.

Beginning at that time, for purposes of California law, domestic partners will have a great many new rights and responsibilities, including laws governing community property, those governing property transfer, those regarding duties of mutual financial support and mutual responsibilities for certain debts to third parties, and many others. The way domestic partnerships are terminated will also change. Unlike current law, which allows partners to end their partnership simply by filing a "Termination of Domestic Partnership" form with the Secretary of State, after January 1, 2005, it will be necessary under certain circumstances to participate in a dissolution proceeding in court to end a domestic partnership.

If you have questions about these changes, please consult an attorney. If you cannot find an attorney in your area, please contact your county bar association for a referral."