



ALBUQUERQUE PUBLIC SCHOOLS DOMESTIC PARTNERS POLICY

(Current as of 7/2018; subject to change without notice)

General

Albuquerque Public Schools is committed to providing equal employment and educational opportunities to all individuals. Therefore, since 8/1/2004, Albuquerque Public Schools has provided equal employment benefits to employees with a Domestic Partner of the same or opposite gender.

Albuquerque Public Schools employees who have a Domestic Partner, as defined below, shall be eligible to enroll their Domestic Partner for Medical, Dental, Vision, and/or Voluntary Supplemental Life Insurance benefits. Domestic Partners will also be eligible to elect COBRA due to qualifying events including the employee's death, termination, or reduction in hours. Dissolution of the partnership or "separation" is not a qualifying event as there is no legal relationship.

Domestic Partners

Albuquerque Public Schools defines Domestic Partners as two (2) individuals who live together in a long-term relationship of indefinite duration, and who have been in that relationship for a minimum of twelve (12) months at the time of enrollment for benefits. There must be an exclusive mutual commitment similar to that of a marriage, in which the partners agree to be financially responsible for each other's welfare and share financial obligations. The APS Employee Benefits Department recommends that you consult an attorney before you certify that you have a Domestic Partner.

Qualifying Criteria

To be recognized as Domestic Partners by Albuquerque Public Schools, both individuals must meet **all** of the following criteria, sign an *Affidavit of Domestic Partnership Form*, and submit all necessary documentation to the Employee Benefits Department.

Criteria

1. Neither partner is currently married or legally separated.
2. Domestic Partners must have been in a mutually exclusive relationship for at least the last twelve (12) months, intending to remain so indefinitely, and must share the same primary residence.
3. Domestic Partners must meet the age requirements for marriage in New Mexico and be mentally competent to consent to contract.
4. Domestic Partners must not be related by blood to the degree prohibited in a legal marriage in the State of New Mexico.

Supporting Documentation

1. Domestic Partners must be jointly responsible for the common welfare of each other and share financial obligations. An *Affidavit of Domestic Partnership Form* signed to that effect, and three (3) supporting documents from the list below, with one (1) document being effective for at least twelve (12) months, must be submitted to the APS Employee Benefits Department at the time of enrollment:
 - a. Current joint mortgage or lease (document must show names of both partners)

- b. Current joint ownership of a motor vehicle, current joint bank account, or current joint credit account (document must show names of both partners)
- c. Domestic Partner named as beneficiary of life insurance and/or retirement benefits
- d. Domestic Partner named as primary beneficiary in the employee's will
- e. Domestic Partner assigned as durable property or health care power of attorney
- f. Proof that current household expenses are shared by both partners (i.e., joint utility account)

Misrepresentation

Anyone who knowingly or willingly makes any false or fraudulent statement or representation shall risk forfeiting all employee and Domestic Partner rights to coverage or benefits. Providing false information may also result in disciplinary action, up to and including termination of employment. The employee will be responsible for the reimbursement of all liability including, without limitation, taxes, penalties, reasonable attorney's fees, and all costs involved in providing benefit coverage (premiums, claims, etc.).

Termination of Domestic Partnership

Individuals granted Domestic Partnership status must report any change in status that terminates the relationship. Please notify the Employee Benefits Department within sixty (60) calendar days by completing a *Termination of Domestic Partnership Form*.

Qualified Child of Domestic Partner

The child of a Domestic Partner qualifies as an eligible child based on the same criteria as a child of the employee:

- If either Domestic Partner is the biological parent of the child,
- If either or both partners are adoptive parents of the child, or
- If the child has been placed in the Domestic Partner's household as part of an adoptive placement, legal guardianship, or by court order (includes foster children).

An original birth certificate or court order document(s) for the eligible child must be provided to the APS Employee Benefits Department at the time of enrollment for benefits.

Exclusions

Except for the eligible individuals described above, the following persons are not recognized as Domestic Partners and are **not considered eligible** to be enrolled for benefits: **ex-spouses and former Domestic Partners**, mere roommates, and other relatives who are related to the APS employee to such degree of closeness that marriage would be prohibited in the State of New Mexico.

Tax Consequences of Domestic Partner Coverage

Under federal tax law, if a Domestic Partner does not qualify as a tax dependent as defined in the Internal Revenue Code Sections 151 and 152, the **fair market value of the premiums will be included in the employee's gross income (imputed income), subject to federal and state income tax withholding and employment taxes, and will be reported on Form W-2.**

It is up to the employee and/or Domestic Partner to determine whether the Domestic Partner qualifies as a dependent under the Internal Revenue Code Sections 151 and 152. The APS Employee Benefits

Department recommends that you consult a tax advisor before you certify that your Domestic Partner is a dependent as defined by the IRS.

- If a Domestic Partner experiences a HIPAA Special Enrollment Loss of Other Coverage event mid-year (a qualifying event), and the Domestic Partner is subsequently enrolled in APS benefits due to that loss of coverage, the coverage will be provided on a **post-tax basis** for the balance of the plan year. For the new plan year, the Domestic Partner can have his or her benefits applied pre-tax if the Domestic Partner meets the definition of a qualifying relative in the prior calendar year. **It is the employee's responsibility to notify the APS Employee Benefits Department of this situation by completing a new *Domestic Partner Affidavit Form*** indicating that the Domestic Partner qualifies as a dependent for federal and state income tax purposes. The new *Domestic Partner Affidavit Form* must be received by the Employee Benefits Department in **November or December prior to the new plan year**, so that the change to pre-tax basis can be made effective January 1st.

Enrollment

Employees may enroll a qualified Domestic Partner/child within sixty (60) calendar days from date of hire (or date of qualifying event) if all requirements of the APS Domestic Partner Policy are satisfied. Enrollment Forms received after the deadline will be declined, and the eligible Domestic Partner/child may be enrolled only during Switch/Open Enrollment, or if the Domestic Partner/child loses insurance coverage *involuntarily*.

Attachments

Affidavit of Domestic Partnership Form

Termination of Domestic Partnership Form



ALBUQUERQUE PUBLIC SCHOOLS AFFIDAVIT OF DOMESTIC PARTNERSHIP

(This affidavit is four pages in length)

I. Declaration

We, _____ and _____,
(Print Employee's Name) (Print Partner's Name)

certify and declare that we are Domestic Partners in accordance with the following criteria and by submission of the required supporting documentation, and that my Domestic Partner is eligible to be enrolled in the APS Medical, Dental, Vision, and/or Voluntary Supplemental Life Insurance benefits.

Note: There are several places on this document that require that either the employee or both the employee and Domestic Partner sign or initial. These areas are shown in red font.

II. Domestic Partner Criteria

1. Neither of us is currently married or legally separated, and
2. We share the same primary residence and have been in a mutually exclusive relationship for at least the last twelve (12) months, intending to remain so indefinitely, and
3. We meet the age requirements for marriage in the State of New Mexico and are mentally competent to consent to contract, and
4. We are not related by blood to the degree of closeness that marriage would be prohibited in a legal marriage in the State of New Mexico, and
5. We are jointly responsible for the common welfare of each other and share current financial obligations.

Employee's initials

Domestic Partner's initials

Three (3) supporting documents from the list below, with one (1) document being effective for at least twelve (12) months, are being submitted to the Employee Benefits Department with our benefits Enrollment Form. (The APS employee must initial next to the three items that are being submitted.)

- a. Current joint mortgage or lease (document must show names of both partners) _____
Employee's initials
- b. Current joint ownership of a motor vehicle, current joint bank account, or current joint credit account (document must show names of both partners) _____
Employee's initials
- c. Domestic Partner named as beneficiary of life insurance and/or retirement benefits _____
Employee's initials
- d. Domestic Partner named as primary beneficiary in the employee's will _____
Employee's initials
- e. Domestic Partner assigned as durable property or health care power of attorney _____
Employee's initials
- f. Proof that current household expenses are shared by both partners (i.e., joint utility account) _____
Employee's initials

III. Change in Domestic Partnership

We agree to notify the Albuquerque Public Schools Benefits Department in writing within sixty (60) days of any change in our status as Domestic Partners (as attested in this affidavit) which would make the Domestic Partner and/or his/her children ineligible for APS benefits (for example, if we no longer share the same principal residence), or if we wish to terminate Domestic Partner benefits. Coverage for the Domestic Partner and/or his/her children will end as of the last day of the month following the date of change in our status as Domestic Partners and/or eligible child.

IV. Certification of Domestic Partner as a Tax Dependent

Under federal tax law, if a Domestic Partner does not qualify as a tax dependent as defined in the Internal Revenue Code Sections 151 and 152, then **the fair market value of the premiums will be included in the employee's gross income (imputed income), subject to federal and state income tax withholding and employment taxes, and will be reported on Form W-2.**

It is up to the employee and/or Domestic Partner to determine whether the Domestic Partner qualifies as a dependent under the Internal Revenue Code Sections 151 and 152.

- If a Domestic Partner experiences a HIPAA Special Enrollment Loss of Other Coverage event mid-year (a qualifying event), and the Domestic Partner is subsequently enrolled in APS benefits due to that loss of coverage, the coverage will be provided on a **post-tax basis** for the balance of the plan year. For the new plan year, the Domestic Partner can have his or her benefits applied pre-tax if the Domestic Partner meets the definition of a qualifying relative in the prior calendar year. **It is the employee's responsibility to notify the APS Employee Benefits Department of this situation by completing a new *Domestic Partner Affidavit Form*** indicating that the Domestic Partner qualifies as a dependent for federal and state income tax purposes. The new *Domestic Partner Affidavit Form* must be received by the Employee Benefits Department in **November or December prior to the new plan year**, so that the change to pre-tax basis can be made. (IRS Publication 501 provides information regarding tax consequences of a Domestic Partnership.)

The APS Employee Benefits Department recommends that you consult a tax advisor before you certify that your Domestic Partner whom you are enrolling for benefits is a dependent as defined by the Internal Revenue Code Section 151 and 152. If your answer is YES, you will not be taxed on imputed income for the dependent coverage premiums and you are able to make contributions for the Domestic Partner's coverage on a pre-tax basis (except as noted above).

Please check one and **initial your selection**:

- No, my Domestic Partner does not qualify as my dependent for federal and state income tax purposes. **I understand that the fair market value of my Domestic Partner's premiums will be included in my gross income (imputed income), and that I will be taxed on that value.**
_____ Employee's initials
- Yes, my Domestic Partner qualifies as my dependent for federal and state income tax purposes. **I understand that on the basis of the above statement, the APS Employee Benefits Department will consider my Domestic Partner as my dependent for all federal and state income and employment tax purposes.** _____ Employee's initials

V. **Qualified Children of Domestic Partners**

The child of a Domestic Partner qualifies as an eligible child:

- If either Domestic Partner is the biological parent of the child, or
- If either or both partners are adoptive parents of the child, or
- If the child has been placed in the Domestic Partner’s household as part of an adoptive placement, legal guardianship, or by court order (includes foster children).

Exclusions

Except for the eligible individuals described above, the following persons are not recognized as Domestic Partners and are **not considered eligible** to be enrolled for benefits: **ex-spouses and former Domestic Partners**, mere roommates, and other relatives who are related to the Albuquerque Public Schools employee to such degree of closeness that marriage would be prohibited in the State of New Mexico.

1. We declare the following as eligible children:

*[Name(s) of child(ren) and **initials of both partners**]*

An original birth certificate or court order document(s) for each eligible child must be provided to the APS Employee Benefits Department at the time of enrollment for benefits.

VI. **Acknowledgements**

1. We understand that courts have recognized some non-marriage relationships as the equivalent of marriage for the purpose of establishing and dividing community property.

Employee’s initials Domestic Partners initials

2. We acknowledge the advice from Albuquerque Public Schools that we consult an attorney and tax advisor before signing this document.

Employee’s initials Domestic Partners initials

3. We acknowledge that **ex-spouses and former Domestic Partners** cannot be enrolled as a Domestic Partner.

Employee’s initials Domestic Partners initials

4. **We affirm, under penalty of perjury, that the assertions in this affidavit are true and correct. We understand that misrepresentation of fact may result in loss of benefits and in disciplinary action, up to and including termination of employment. We both agree to reimburse Albuquerque Public Schools for all liability including, without limitation, taxes, penalties, reasonable attorney’s fees, and all costs involved in providing benefit coverage (premiums, claims, etc.) that Albuquerque Public Schools may incur arising out of its reliance on this affidavit if it is untrue in any respect or if either of us fail to provide the notice required by paragraph III.**

Employee’s initials Domestic Partners initials

APS Employee name (print) _____

APS Employee number _____

Both partners must sign this four page legal document in the presence of a Notary Public.

Employee Signature

Date

Domestic Partner Signature

Date

STATE OF NEW MEXICO }

COUNTY OF BERNALILLO }

The foregoing instrument was acknowledged before me this _____ day of
_____, _____, by _____
(Month) (Year)

and _____ as their own free act and deed.

Notary Public

My Commission Expires: _____
Date



ALBUQUERQUE PUBLIC SCHOOLS TERMINATION OF DOMESTIC PARTNERSHIP

I declare that we, _____ and _____

are no longer Domestic Partners. I submit this *Termination of Domestic Partnership Form* in order to cancel the *Affidavit of Domestic Partner Form* filed by me with Albuquerque Public Schools. I understand that my former Domestic Partner is no longer eligible to be enrolled on the APS benefit plans, and that his/her coverage and his/her child(ren)'s coverage will end effective the last day of the month in which our partnership ended. I acknowledge that, due to the dissolution of our Domestic Partnership, my former Domestic Partner and his/her children are not eligible for COBRA continuation coverage. I also understand I will not be able to re-enroll my former Domestic Partner in APS benefits at any point in the future.

I affirm that I mailed my former Domestic Partner a copy of this notice on _____.
Date

_____ Employee's initials

I declare, under penalty of perjury, that the above statements are true and correct.

Employee Signature Date

Employee name (print) _____

Employee number _____

Employee address _____

Return completed form to the Albuquerque Public Schools Employee Benefits Department within sixty (60) calendar days from the date the Domestic Partnership ended.