

## Source

(Added [Pub. L. 95-454](#), title I, § 101(a), Oct. 13, 1978, [92 Stat. 1114](#); amended [Pub. L. 101-12](#), § 4, Apr. 10, 1989, [103 Stat. 32](#); [Pub. L. 101-474](#), § 5(d), Oct. 30, 1990, [104 Stat. 1099](#); [Pub. L. 102-378](#), § 2(5), Oct. 2, 1992, [106 Stat. 1346](#); [Pub. L. 103-94](#), § 8(c), Oct. 6, 1993, [107 Stat. 1007](#); [Pub. L. 103-359](#), title V, § 501(c), Oct. 14, 1994, [108 Stat. 3429](#); [Pub. L. 103-424](#), § 5, Oct. 29, 1994, [108 Stat. 4363](#); [Pub. L. 104-197](#), title III, § 315(b)(2), Sept. 16, 1996, [110 Stat. 2416](#), [Pub. L. 104-201](#), div. A, title XI, § 1122(a)(1), title XVI, § 1615(b), Sept. 23, 1996, [110 Stat. 2687](#), 2741; [Pub. L. 105-339](#), § 6(a), (b), (c)(2), Oct. 31, 1998, [112 Stat. 3187](#), 3188; [Pub. L. 108-271](#), § 8(b), July 7, 2004, [118 Stat. 814](#); [Pub. L. 110-417](#), [div. A], title IX, § 931(a)(1), Oct. 14, 2008, [122 Stat. 4575](#); [Pub. L. 112-199](#), title I, §§ 101(a), (b)(1)(B), (2)(B), (C), 102-104(b)(1), [105](#), 112, Nov. 27, 2012, [126 Stat. 1465-1468](#), 1472; [Pub. L. 112-277](#), title V, § 505(a), Jan. 14, 2013, [126 Stat. 2478](#).)

## References in Text

Section 1308(b) of the Alaska National Interest Lands Conservation Act, referred to in subsec. (e)(1)(C), is classified to section [3198 \(b\)](#) of Title [16](#), Conservation.

Section 301(c) of the Foreign Service Act of 1980, referred to in subsec. (e)(1)(D), is classified to section [3941 \(c\)](#) of Title [22](#), Foreign Relations and Intercourse.

Section [106 \(f\)](#) of title [38](#), referred to in subsec. (e)(1)(E), was enacted subsequent to the enactment of subsec. (e) of this section.

Section [7802 \(5\)](#) of title [38](#), referred to in subsec. (e)(1)(E), was redesignated section [7802 \(e\)](#) of title [38](#) by [Pub. L.](#)

[108-170](#), title III, § 304(b)(3), Dec. 6, 2003, [117 Stat. 2059](#).

## **Amendments**

2013—Subsec. (a)(2)(C)(ii). [Pub. L. 112-277](#) added cl. (ii) and struck out former cl. (ii) which read as follows:

“(I) the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, the Office of the Director of National Intelligence, and the National Reconnaissance Office; and

“(II) as determined by the President, any Executive agency or unit thereof the principal function of which is the conduct of foreign intelligence or counterintelligence activities, provided that the determination be made prior to a personnel action; or”.

2012—Subsec. (a)(2)(A)(xi), (xii). [Pub. L. 112-199](#), § 104(a), added cl. (xi) and redesignated former cl. (xi) as (xii).

Subsec. (a)(2)(C)(i). [Pub. L. 112-199](#), § 101(b)(1)(B), inserted “or section [2302 \(b\)\(9\)\(A\)\(i\)](#), (B), (C), or (D)” after “(b)(8)”.

Subsec. (a)(2)(C)(ii). [Pub. L. 112-199](#), § 105, added cl. (ii) and struck out former cl. (ii) which read as follows: “the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, the National Security Agency, and, as determined by the President, any Executive agency or unit thereof the principal function of which is the

conduct of foreign intelligence or counterintelligence activities; or”.

Subsec. (a)(2)(D). [Pub. L. 112-199](#), § 102, added subpar. (D).

Subsec. (b). [Pub. L. 112-199](#), § 103, amended concluding provisions generally. Prior to amendment, concluding provisions read as follows: “This subsection shall not be construed to authorize the withholding of information from the Congress or the taking of any personnel action against an employee who discloses information to the Congress.”

Subsec. (b)(8)(A)(i). [Pub. L. 112-199](#), § 101(a)(1), substituted “any violation” for “a violation”.

Subsec. (b)(8)(B)(i). [Pub. L. 112-199](#), § 101(a)(2), substituted “any violation (other than a violation of this section)” for “a violation”.

Subsec. (b)(9)(A). [Pub. L. 112-199](#), § 101(b)(2)(B)(i), added subpar. (A) and struck out former subpar. (A) read as follows: “the exercise of any appeal, complaint, or grievance right granted by any law, rule, or regulation;”.

Subsec. (b)(9)(B). [Pub. L. 112-199](#), § 101(b)(2)(B)(ii), inserted “(i) or (ii)” after “subparagraph (A)”.

Subsec. (b)(13). [Pub. L. 112-199](#), § 104(b)(1), added par. (13).

Subsec. (c). [Pub. L. 112-199](#), § 112, inserted “, including how to make a lawful disclosure of information that is specifically required by law or Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs to the Special Counsel, the Inspector

General of an agency, Congress, or other agency employee designated to receive such disclosures” after “chapter 12 of this title”.

Subsec. (f). [Pub. L. 112-199](#), § 101(b)(2)(C), added subsec. (f).

2008—Subsec. (a)(2)(C)(ii). [Pub. L. 110-417](#) substituted “National Geospatial-Intelligence Agency” for “National Imagery and Mapping Agency”.

2004—Subsec. (a)(2)(C)(iii). [Pub. L. 108-271](#) substituted “Government Accountability Office” for “General Accounting Office”.

1998—Subsec. (a)(1). [Pub. L. 105-339](#), § 6(c)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “For purposes of this title, ‘prohibited personnel practice’ means the following:

“(A) Any action described in subsection (b) of this section.

“(B) Any action or failure to act that is designated as a prohibited personnel action under section [1599c \(a\)](#) of title [10](#).”

Subsec. (b)(10) to (12). [Pub. L. 105-339](#), § 6(a), struck out “or” at end of par. (10), added par. (11), and redesignated former par. (11) as (12).

Subsec. (e). [Pub. L. 105-339](#), § 6(b), added subsec. (e).

1996—Subsec. (a)(1). [Pub. L. 104-201](#), § 1615(b), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “For the purpose of this title, ‘prohibited personnel practice’ means any action described in subsection (b) of this section.”

Subsec. (a)(2)(C)(ii). [Pub. L. 104-201](#), § 1122(a)(1), substituted “National Imagery and Mapping Agency” for “Central Imagery Office”.

Subsec. (b)(2). [Pub. L. 104-197](#) amended par. (2) generally. Prior to amendment, par. (2) read as follows: “solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action except as provided under section [3303 \(f\)](#);”.

1994—Subsec. (a)(2)(A). [Pub. L. 103-424](#), § 5(a)(3), in concluding provisions, inserted before semicolon “, and in the case of an alleged prohibited personnel practice described in subsection (b)(8), an employee or applicant for employment in a Government corporation as defined in section [9101](#) of title [31](#)”.

Subsec. (a)(2)(A)(x), (xi). [Pub. L. 103-424](#), § 5(a)(1), (2), added cls. (x) and (xi) and struck out former cl. (x) which read as follows: “any other significant change in duties or responsibilities which is inconsistent with the employee’s salary or grade level;”.

Subsec. (a)(2)(B). [Pub. L. 103-424](#), § 5(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “ ‘covered position’ means any position in the competitive service, a career appointee position in the Senior Executive Service, or a position in the excepted service, but does not include—

“(i) a position which is excepted from the competitive service because of its confidential, policy-determining, policy-making, or policy-advocating character; or

“(ii) any position excluded from the coverage of this section by the President based on a determination by the President that it is necessary and warranted by conditions of good administration.”

Subsec. (a)(2)(C)(i). [Pub. L. 103-424](#), § 5(c), inserted before semicolon “, except in the case of an alleged prohibited personnel practice described under subsection (b)(8)”.

Subsec. (a)(2)(C)(ii). [Pub. L. 103-359](#) inserted “the Central Imagery Office,” after “Defense Intelligence Agency,”.

Subsec. (c). [Pub. L. 103-424](#), § 5(d), inserted before period at end of first sentence “, and for ensuring (in consultation with the Office of Special Counsel) that agency employees are informed of the rights and remedies available to them under this chapter and chapter [12](#) of this title”.

1993—Subsec. (b)(2). [Pub. L. 103-94](#) amended par. (2) generally. Prior to amendment, par. (2) read as follows: “solicit or consider any recommendation or statement, oral or written, with respect to any individual who requests or is under consideration for any personnel action unless such recommendation or statement is based on the personal knowledge or records of the person furnishing it and consists of—

“(A) an evaluation of the work performance, ability, aptitude, or general qualifications of such individual; or

“(B) an evaluation of the character, loyalty, or suitability of such individual;”.

1992—Subsec. (b)(8)(B). [Pub. L. 102-378](#) substituted “Special Counsel” for “Special Counsel of the Merit Systems Protection Board”.

1990—Subsec. (a)(2)(C). [Pub. L. 101-474](#) struck out “, the Administrative Office of the United States Courts,” after “means an Executive agency”.

1989—Subsec. (b)(8). [Pub. L. 101-12](#), § 4(a), in introductory provision inserted “, or threaten to take or fail to take,” after “fail to” and substituted “because of” for “as a reprisal for”, in subpar. (A) substituted “any disclosure” for “a disclosure”, in subpar. (A)(ii) inserted “gross” before “mismanagement”, in subpar. (B) substituted “any disclosure” for “a disclosure”, and in subpar. (B)(ii) inserted “gross” before “mismanagement”.

Subsec. (b)(9). [Pub. L. 101-12](#), § 4(b), amended par. (9) generally. Prior to amendment, par. (9) read as follows: “take or fail to take any personnel action against any employee or applicant for employment as a reprisal for the exercise of any appeal right granted by any law, rule, or regulation;”.

### **Effective Date of 2012 Amendment**

Amendment by [Pub. L. 112-199](#) effective 30 days after Nov. 27, 2012, see section 202 of [Pub. L. 112-199](#), set out as a note under section [1204](#) of this title.

### **Effective Date of 1996 Amendment**

Amendment by section 1122(a)(1) of [Pub. L. 104-201](#) effective Oct. 1, 1996, see section 1124 of [Pub. L. 104-](#)

[201](#), set out as a note under section [193](#) of Title [10](#), Armed Forces.

[Pub. L. 104-197](#), title III, § 315(c), Sept. 16, 1996, [110 Stat. 2416](#), provided that: "This section [amending this section and section [3303](#) of this title] shall take effect 30 days after the date of the enactment of this Act [Sept. 16, 1996]."

### **Effective Date of 1993 Amendment; Savings Provision**

Amendment by [Pub. L. 103-94](#) effective 120 days after Oct. 6, 1993, but not to release or extinguish any penalty, forfeiture, or liability incurred under amended provision, which is to be treated as remaining in force for purpose of sustaining any proper proceeding or action for enforcement of that penalty, forfeiture, or liability, and no provision of [Pub. L. 103-94](#) to affect any proceedings with respect to which charges were filed on or before 120 days after Oct. 6, 1993, with orders to be issued in such proceedings and appeals taken therefrom as if [Pub. L. 103-94](#) had not been enacted, see section 12 of [Pub. L. 103-94](#), set out as an Effective Date; Savings Provision note under section [7321](#) of this title.

### **Effective Date of 1989 Amendment**

Amendment by [Pub. L. 101-12](#) effective 90 days following Apr. 10, 1989, see section 11 of [Pub. L. 101-12](#), set out as a note under section [1201](#) of this title.

### **Savings Provision**



[Pub. L. 112-199](#), title II, § 201, Nov. 27, 2012, [126 Stat. 1475](#), provided that: “Nothing in this Act [see section 1 of [Pub. L. 112-199](#), set out as a Short Title of 2012 Amendment note under section [101](#) of this title] shall be construed to imply any limitation on any protections afforded by any other provision of law to employees and applicants.”

[Pub. L. 105-339](#), § 6(d), Oct. 31, 1998, [112 Stat. 3188](#), provided that: “This section [amending this section and repealing section [1599c](#) of Title [10](#), Armed Forces] shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section [2302](#) of title [5](#), United States Code) preceding the date of enactment of this Act [Oct. 31, 1998].”

### **Agency Websites**

[Pub. L. 112-199](#), title I, § 104(b)(2), Nov. 27, 2012, [126 Stat. 1467](#), provided that: “Agencies making use of any nondisclosure policy, form, or agreement shall also post the statement required under section [2302 \(b\)\(13\)](#) of title [5](#), United States Code (as added by this Act) on the agency website, accompanied by the specific list of controlling Executive orders and statutory provisions.”

### **Nondisclosure Policy, Form, or Agreement in Effect Before the Effective Date**

[Pub. L. 112-199](#), title I, § 104(b)(3), Nov. 27, 2012, [126 Stat. 1467](#), provided that: “With respect to a nondisclosure policy, form, or agreement that was in effect before the

effective date of this Act [see Effective Date of 2012 Amendment note above], but that does not contain the statement required under section [2302 \(b\)\(13\)](#) of title [5](#), United States Code (as added by this Act) for implementation or enforcement—

“(A) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement with regard to a current employee if the agency gives such employee notice of the statement; and

“(B) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement after the effective date of this Act with regard to a former employee if the agency complies with paragraph (2) of this subsection [set out as a note above].”

### **Disclosure of Censorship Related to Research, Analysis, or Technical Information**

[Pub. L. 112-199](#), title I, § 110, Nov. 27, 2012, [126 Stat. 1471](#), provided that:

“(a) Definitions.—In this subsection—

“(1) the term ‘agency’ has the meaning given under section [2302 \(a\)\(2\)\(C\)](#) of title [5](#), United States Code;

“(2) the term ‘applicant’ means an applicant for a covered position;

“(3) the term ‘censorship related to research, analysis, or technical information’ means any effort to distort, misrepresent, or suppress research, analysis, or technical information;

“(4) the term ‘covered position’ has the meaning given under section [2302 \(a\)\(2\)\(B\)](#) of title [5](#), United States Code;

“(5) the term ‘employee’ means an employee in a covered position in an agency; and

“(6) the term ‘disclosure’ has the meaning given under section [2302 \(a\)\(2\)\(D\)](#) of title [5](#), United States Code.

“(b) Protected Disclosure.—

“(1) In general.—Any disclosure of information by an employee or applicant for employment that the employee or applicant reasonably believes is evidence of censorship related to research, analysis, or technical information—

“(A) shall come within the protections of section [2302 \(b\)\(8\)\(A\)](#) of title [5](#), United States Code, if—

“(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

“(I) any violation of law, rule, or regulation; or “(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

“(ii) such disclosure is not specifically prohibited by law or such information is not specifically required by Executive order to be kept classified in the interest of national defense or the conduct of foreign affairs; and

“(B) shall come within the protections of section [2302 \(b\)\(8\)\(B\)](#) of title [5](#), United States Code, if—

“(i) the employee or applicant reasonably believes that the censorship related to research, analysis, or technical information is or will cause—

“(I) any violation of law, rule, or regulation; or      “(II) gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; and

“(ii) the disclosure is made to the Special Counsel, or to the Inspector General of an agency or another person designated by the head of the agency to receive such disclosures, consistent with the protection of sources and methods.

“(2) Disclosures not excluded.—A disclosure shall not be excluded from paragraph (1) for any reason described under section [2302 \(f\)\(1\)](#) or (2) of title [5](#), United States Code.

“(3) Rule of construction.—Nothing in this section shall be construed to imply any limitation on the protections of employees and applicants afforded by any other provision of law, including protections with respect to any disclosure of information believed to be evidence of censorship related to research, analysis, or technical information.”

## **Nondisclosure Policies, Forms, and Agreements**

[Pub. L. 112-199](#), title I, § 115, Nov. 27, 2012, [126 Stat. 1472](#), provided that:

“(a) In General.—

“(1) Requirement.—Each agreement in Standard Forms 312 and 4414 of the Government and any other nondisclosure policy, form, or agreement of the Government shall contain

the following statement: 'These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.'

"(2) Agency websites.—Agencies making use of any nondisclosure policy, form, or agreement shall also post the statement required under paragraph (1) on the agency website, accompanied by the specific list of controlling Executive orders and statutory provisions.

"(3) Enforceability.—

"(A) In general.—Any nondisclosure policy, form, or agreement described under paragraph (1) that does not contain the statement required under paragraph (1) may not be implemented or enforced to the extent such policy, form, or agreement is inconsistent with that statement.

"(B) Nondisclosure policy, form, or agreement in effect before the effective date.—With respect to a nondisclosure policy, form, or agreement that was in effect before the effective date of this Act [see Effective Date of 2012 Amendment note above], but that does not contain the

statement required under paragraph (1) for implementation or enforcement—

“(i) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement with regard to a current employee if the agency gives such employee notice of the statement; and

“(ii) it shall not be a prohibited personnel practice to enforce that policy, form, or agreement after the effective date of this Act with regard to a former employee if the agency complies with paragraph (2).

“(b) Persons Other Than Government Employees.— Notwithstanding subsection (a), a nondisclosure policy, form, or agreement that is to be executed by a person connected with the conduct of an intelligence or intelligence-related activity, other than an employee or officer of the United States Government, may contain provisions appropriate to the particular activity for which such document is to be used. Such policy, form, or agreement shall, at a minimum, require that the person will not disclose any classified information received in the course of such activity unless specifically authorized to do so by the United States Government. Such nondisclosure policy, form, or agreement shall also make it clear that such forms do not bar disclosures to Congress or to an authorized official of an executive agency or the Department of Justice that are essential to reporting a substantial violation of law, consistent with the protection of sources and methods.”

## **Federal Benefits and Non-Discrimination**

Memorandum of President of the United States, June 17, 2009, [74 F.R. 29393](#), provided:

Memorandum for the Heads of Executive Departments and Agencies

Millions of hard-working, dedicated, and patriotic public servants are employed by the Federal Government as part of the civilian workforce, and many of these devoted Americans have same-sex domestic partners. Leading companies in the private sector are free to provide to same-sex domestic partners the same benefits they provide to married people of the opposite sex. Executive departments and agencies, however, may only provide benefits on that basis if they have legal authorization to do so. My Administration is not authorized by Federal law to extend a number of available Federal benefits to the same-sex partners of Federal employees. Within existing law, however, my Administration, in consultation with the Secretary of State, who oversees our Foreign Service employees, and the Director of the Office of Personnel Management, who oversees human resource management for our civil service employees, has identified areas in which statutory authority exists to achieve greater equality for the Federal workforce through extension to same-sex domestic partners of benefits currently available to married people of the opposite sex. Extending available benefits will help the Federal Government compete with the private sector to recruit and retain the best and the brightest employees.

I hereby request the following:

Section 1. Extension of Identified Benefits. The Secretary of State and the Director of the Office of Personnel Management shall, in consultation with the Department of Justice, extend the benefits they have respectively identified to qualified same-sex domestic partners of Federal employees where doing so can be achieved and is consistent with Federal law.

Sec. 2. Review of Governmentwide Benefits. The heads of all other executive departments and agencies, in consultation with the Office of Personnel Management, shall conduct a review of the benefits provided by their respective departments and agencies to determine what authority they have to extend such benefits to same-sex domestic partners of Federal employees. The results of this review shall be reported within 90 days to the Director of the Office of Personnel Management, who, in consultation with the Department of Justice, shall recommend to me any additional measures that can be taken, consistent with existing law, to provide benefits to the same-sex domestic partners of Federal Government employees.

Sec. 3. Promoting Compliance with Existing Law Requiring Federal Workplaces to be Free of Discrimination Based on Non-Merit Factors. The Office of Personnel Management shall issue guidance within 90 days to all executive departments and agencies regarding compliance with, and implementation of, the civil service laws, rules, and regulations, including [5 U.S.C. 2302 \(b\)\(10\)](#), which make it unlawful to discriminate against Federal employees or applicants for Federal employment on the basis of factors not related to job performance.



Sec. 4. General Provisions. (a) Nothing in this memorandum shall be construed to impair or otherwise affect:

(i) Authority granted by law or Executive Order to an agency, or the head thereof; or

(ii) Functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 5. Publication. The Director of the Office of Personnel Management is hereby authorized and directed to publish this memorandum in the Federal Register.

Barack Obama.

## **Extension of Benefits to Same-Sex Domestic Partners of Federal Employees**

Memorandum of President of the United States, June 2, 2010, [75 F.R. 32247](#), provided:

Memorandum for the Heads of Executive Departments and Agencies

For far too long, many of our Government's hard-working, dedicated LGBT employees have been denied equal access

to the basic rights and benefits their colleagues enjoy. This kind of systemic inequality undermines the health, well-being, and security not just of our Federal workforce, but also of their families and communities. That is why, last June, I directed the heads of executive departments and agencies (agencies), in consultation with the Office of Personnel Management (OPM), to conduct a thorough review of the benefits they provide and to identify any that could be extended to LGBT employees and their partners and families. Although legislative action is necessary to provide full equality to LGBT Federal employees, the agencies have identified a number of benefits that can be extended under existing law. OPM, in consultation with the Department of Justice, has provided me with a report recommending that all of the identified benefits be extended.

Accordingly, I hereby direct the following:

**Section 1. Immediate Actions To Extend Benefits.** Agencies should immediately take the following actions, consistent with existing law, in order to extend benefits to the same-sex domestic partners of Federal employees, and, where applicable, to the children of same-sex domestic partners of Federal employees:

(a) The Director of OPM should take appropriate action to:

(i) clarify that the children of employees' same-sex domestic partners fall within the definition of "child" for purposes of Federal child-care subsidies, and, where appropriate, for child-care services;

(ii) clarify that, for purposes of employee assistance programs, same-sex domestic partners and their children qualify as “family members”;

(iii) issue a proposed rule that would clarify that employees’ same-sex domestic partners qualify as “family members” for purposes of noncompetitive appointments made pursuant to Executive Order 12721 of July 30, 1990;

(iv) issue a proposed rule that would add a Federal retiree’s same-sex domestic partner to the list of individuals presumed to have an insurable interest in the employee pursuant to [5 U.S.C. 8339 \(k\)\(1\)](#), [8420](#);

(v) clarify that under appropriate circumstances, employees’ same-sex domestic partners and their children qualify as dependents for purposes of evacuation payments made under [5 U.S.C. 5522–5523](#); Folio: 1632 [sic]

(vi) amend its guidance on implementing President Clinton’s April 11, 1997, memorandum to heads of executive departments and agencies on “Expanded Family and Medical Leave Policies” to specify that the 24 hours of unpaid leave made available to Federal employees in connection with (i) school and early childhood educational activities; (ii) routine family medical purposes; and (iii) elderly relatives’ health or care needs, may be used to meet the needs of an employee’s same-sex domestic partner or the same-sex domestic partner’s children; and

(vii) clarify that employees’ same-sex domestic partners qualify as dependents for purposes of calculating the extra allowance payable under [5 U.S.C. 5942a](#) to assist employees

stationed on Johnston Island, subject to any limitations applicable to spouses.

(b) The Administrator of General Services should take appropriate action to amend the definitions of “immediate family” and “dependent” appearing in the Federal Travel Regulations, 41 C.F.R. Chs. 300–304, to include same-sex domestic partners and their children, so that employees and their domestic partners and children can obtain the full benefits available under applicable law, including certain travel, relocation, and subsistence payments.

(c) All agencies offering any of the benefits specified by OPM in implementing guidance under section 3 of this memorandum, including credit union membership, access to fitness facilities, and access to planning and counseling services, should take all appropriate action to provide the same level of benefits that is provided to employees’ spouses and their children to employees’ same-sex domestic partners and their children.

(d) All agencies with authority to provide benefits to employees outside of the context of title 5, United States Code should take all appropriate actions to ensure that the benefits being provided to employees’ spouses and their children are also being provided, at an equivalent level wherever permitted by law, to their employees’ same-sex domestic partners and their children.

Sec. 2. Continuing Obligation To Provide New Benefits. In the future, all agencies that provide new benefits to the spouses of Federal employees and their children should, to the extent permitted by law, also provide them to the same-

sex domestic partners of their employees and those same-sex domestic partners' children. This section applies to appropriated and nonappropriated fund instrumentalities of such agencies.

Sec. 3. Monitoring and Guidance. The Director of OPM shall monitor compliance with this memorandum, and may instruct agencies to provide the Director with reports on the status of their compliance, and prescribe the form Folio: 1633 [sic] and manner of such reports. The Director of OPM shall also issue guidance to ensure consistent and appropriate implementation.

Sec. 4. Reporting. By April 1, 2011, and annually thereafter, the Director of OPM shall provide the President with a report on the progress of the agencies in implementing this memorandum until such time as all recommendations have been appropriately implemented.

Sec. 5. General Provisions. (a) Except as expressly stated herein, nothing in this memorandum shall be construed to impair or otherwise affect:

(i) authority granted by law or Executive Order to an agency, or the head thereof; or

(ii) functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.

(b) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

Sec. 6. Publication. The Director of OPM is hereby authorized and directed to publish this memorandum in the Federal Register.

Barack Obama.