



Metro

**EXECUTIVE MANAGEMENT & AUDIT COMMITTEE
SEPTEMBER 16, 2004**

SUBJECT: MTA POLICY REGARDING DOMESTIC PARTNERSHIPS

ACTION: RECEIVE AND FILE

RECOMMENDATION

Receive and file report of the MTA's intent to adopt the State of California's legal definition of domestic partner to be applied in all related MTA Human Resources Policies, and requiring employees to submit the Declaration of Domestic Partnership filed with the California Secretary of State in order to enroll for Domestic Partner benefits.

ISSUE

The Board is being made aware of the following issue for informational purposes.

Effective January 1, 2005, the California Domestic Partner Rights and Responsibilities Act of 2003 will be enacted as part of the California Family Code, Section 297. This will significantly expand the rights and responsibilities provided to State-registered domestic partners and their families to include nearly all the legal rights, benefits, responsibilities, duties and obligations under State law currently available only to spouses.

The current definition of domestic partner utilized in MTA's Human Resources Policies, however, differs from the legal definition that is used by the State of California. The essential difference in the definitions is that the State of California limits domestic partnerships to same sex adult partners and opposite sex partners if the partners are over 62 years of age. The MTA's definition is broader, extending equal benefits to same sex domestic partners and opposite sex domestic partners over the age of 18.

Per County Counsel, as a result of the new law, all references to "spouse" in Human Resources Policies should be changed to "spouse or domestic partner". All references to "widow/widower" should be expanded to "surviving registered domestic partner" or "former registered domestic partner" (due to death or separation).

DISCUSSION

As the legal rights of same sex domestic partners expand, the MTA's current broader definition poses several potential problems. Firstly, under the current MTA policy, benefits and rights granted under the law to same sex domestic partners will also be automatically

granted to opposite sex domestic partners. Secondly, this will continue to be the case regarding any future legal rights granted by the State to same sex domestic partners.

The purpose of the Domestic Partner law is to provide same sex couples, who have a long-term relationship like married couples, the same rights as those who are able to legally marry. Since same sex domestic partners are forbidden by law to marry, they are denied the benefits associated with marriage. Opposite sex couples can legally marry and thus have access to the benefits of marriage.

If the MTA fails to adopt the State's definition of domestic partner and continues to treat same sex and opposite sex domestic partners the same, it will be in a position of granting additional rights and benefits to a specified group of individuals. This could place the MTA in a situation where other groups of individuals not receiving additional rights and benefits could challenge.

By adopting the State's definition of domestic partner:

1. The MTA will have a definition of Domestic Partner that is consistent with State law, which will make it easier and less confusing to administer its Human Resources policies and provides greater control of the benefits it grants employees.
2. The MTA will no longer have to certify domestic partnerships. The State of California will register all domestic partners. This procedure reduces the possibility of fraud and abuse by employees, given State registration will be notarized.

Currently, there are 56 employees who are registered as domestic partners with the MTA. Of those employees registered, 35 are opposite sex domestic partners under the age of 62, and do not meet that State definition of domestic partner. Under a grandfather clause, in order to minimize the impact this change will have on currently registered employees, all employees currently registered will be allowed to retain their status as MTA domestic partners for the duration of their employment with the MTA, or until the dissolution of their domestic partnerships.

NEXT STEPS

Given the California Domestic Partner Rights and Responsibilities Act goes into effect on January 1, 2005, once this policy revision is approved, the following will take place:

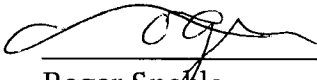
- October 2004 – All current MTA domestic partners will be notified of the change in policy with the explanation of the grandfather clause that will be applied to all employees that have current domestic partner status. Opposite sex domestic partners under the age of 62 who qualify for domestic partner status under the MTA's current policy will be allowed to register until December 31, 2004, after which point they must be registered with the State of California in order to qualify.

- All Human Resources Policies will be revised to reflect the change in definition of domestic partner and benefits available to domestic partners effective January 1, 2005.
- January 1, 2005 – New policy will go into effect. Any employees seeking to qualify for domestic partner status with the MTA will be required to register as a Domestic Partner with the State of California and submit a copy of this registration to the MTA Benefits Department.

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