Approval of Modified Resolution on Domestic Partner Benefits

Since September 2002, the University has offered employee benefits to same-sex domestic partners (“SSDPs”) to the same extent that it has offered benefits to married spouses. The Trustees based this decision on the following rationale:

1. Offering an equivalent cache of benefits to same-sex couples (who were unable to legally marry) would place the University in a more advantageous recruiting position for faculty and staff, and

2. Taking such an approach would mitigate the risk of claims that the University was, to some extent, discriminating against individuals based on sexual orientation.

As legal same-sex marriage increased throughout the U.S., the University has maintained its position that legally married spouses are eligible for employee benefits coverage without regard to whether the legally married couple is same-sex or opposite-sex. With the June 2015 United States Supreme Court decision in *Obergefell v. Hodges*, same-sex marriage is now legal in all fifty states as a matter of federal law.

As observed in the recitals to the attached resolution, this changed legal landscape places the University in the position of recognizing that continuing to offer fringe benefit programs to eligible same-sex domestic partners while not offering those same benefits to opposite-sex domestic partners creates an unequal and potentially discriminatory environment that is not tenable under the law.

In modifying the Prior Resolution, the attached resolution recognizes that discontinuing the current practice should be carried out in a manner and on a timetable that is fair and reasonable. Several peer institutions, including Indiana University, have already taken a similar course of action. The modified resolution continues the practice of offering employee fringe benefit programs to eligible same-sex domestic partners of faculty, staff and students on the same basis as such benefits are afforded to spouses of University employees, but only until the expiration of the plan period ending December 31, 2016.

Your adoption of the attached resolution is recommended.

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1 See Minutes of the September 13, 2002, Stated Meeting of the Board of Trustees, p. 25 (hereinafter “Minutes”).
2 Minutes pp. 25-27
XXVII. APPROVAL OF RESOLUTION AUTHORIZING MODIFICATIONS TO STAFF BENEFITS.

President Jischke brought forward a resolution that approves extending employee fringe benefits to eligible same-sex domestic partners on the same basis as Purdue now extends such benefits to spouses of its employees. The Resolution, which authorizes the establishment of criteria for eligibility and procedures by which individuals requesting such benefits would be certified, is needed at this time so that the staff benefits personnel can proceed with changes as part of the fringe benefits that will be effective January 2003. This benefit is being recommended to encourage an atmosphere of inclusion and fairness to all Purdue employees and to ensure that Purdue is competitive in both the recruitment and the retention of talented faculty, staff and students. It recognizes the diversity of contemporary families in our society and the growing number of Universities and companies who have offered such benefits to their employees.

Trustee Moreau stated that this is the logical next step in a series of steps taken since he has been on the Board. It was a good day in Purdue's history several years ago when sexual orientation was included with the anti-discrimination policy.

After discussion and upon proper motion duly seconded, the Trustees adopted the following Resolution as recommended by the Finance Committee.

RESOLUTION CONCERNING SAME SEX DOMESTIC PARTNER BENEFITS

WHEREAS, Purdue University has a long-standing practice of providing equal employment opportunity and affirmative action while pursuing its goal of academic excellence in a setting that seeks to develop and nurture diversity; and

WHEREAS, Purdue University is committed to the fair and equitable treatment of each member of the University community; and

WHEREAS, to attain its goals of academic excellence and diversity Purdue must be able to recruit and retain the most
qualified faculty, staff and students, and have in place employee benefit programs that are competitive with programs offered at institutions with whom Purdue competes for such employees; and

WHEREAS, the Final Report of the Study Committee of Staff Benefits to the President dated October 12, 2001, identified domestic partner benefits as a competitiveness issue for recruitment and retention of Purdue faculty and staff; characterized Purdue's lack of such benefits as a competitive disadvantage when compared to its peer institutions; recommended that appropriate action be taken to afford domestic partner benefits; and, the President concurs in the Committee's recommendation; and

WHEREAS, The Trustees of Purdue University is authorized by statute to fix and regulate employee fringe benefit programs for Purdue faculty, staff and students;

NOW, THEREFORE, it is hereby RESOLVED by the Board of Trustees (the "Board") of The Trustees of Purdue University as follows:

1. The Board hereby approves extending the existing employee fringe benefit programs to eligible same sex domestic partners of Purdue University faculty, staff and students on the same basis as such benefits are currently afforded to spouses of Purdue employees.

2. The Board further authorizes and directs the President of the University to establish appropriate same sex domestic partner eligibility criteria and certification procedures for administering the program to insure that University employee fringe benefit programs are provided to same sex domestic partners on the same basis as they are currently provided to spouses.

3. The Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Legal Counsel, Assistant Legal Counsel, Secretary and Assistant Secretary of The Trustees of Purdue University, and the Executive Vice President and Treasurer and the Assistant Treasurer of Purdue University, and each of said officers respectively, are hereby authorized and empowered for, on behalf and in the name of The Trustees of Purdue University, or of Purdue University, to take all necessary and proper actions to carry out the purpose and intent of this Resolution whether herein specifically authorized or not, except such actions as are
specifically required by law to be taken by the Board of Trustees as the governing board of The Trustees of Purdue University.
RESOLUTION OF THE BOARD OF TRUSTEES
OF THE TRUSTEES OF PURDUE UNIVERSITY
MODIFYING PRIOR RESOLUTION CONCERNING
SAME-SEX DOMESTIC PARTNER BENEFITS

WHEREAS, Purdue University (the “University”) has long-standing practice of providing equal employment opportunity and fostering an environment that permits the University to achieve academic excellence in a community that is inclusive, free from discrimination, and committed to the fair and equitable treatment of each of its members; and

WHEREAS, by a resolution adopted on September 13, 2002 (the “Prior Resolution”), the Board of Trustees (the “Board”) of the Trustees of Purdue University (the “Corporation”) approved the practice of extending existing employee fringe benefit programs to eligible same-sex domestic partners of University faculty, staff and students on the same basis as such benefits were then afforded to spouses of University employees; and

WHEREAS, same-sex marriage is legal in the State of Indiana, and the United States Supreme Court has recognized that same-sex couples have a constitutional right to marry; and

WHEREAS, in light of the changed legal landscape since the adoption of the Prior Resolution, the University is now placed in the position of recognizing that the continued practice of offering fringe benefit programs to eligible same-sex domestic partners while not offering those same benefits to opposite-sex domestic partners creates an unequal and potentially discriminatory environment that is not tenable under the law; and

WHEREAS, the Board is authorized by statute to fix and regulate fringe benefit programs for Purdue faculty, staff and students:

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

1. The Board hereby finds that, in light of applicable constitutional requirements, it is advisable and in the best interests of the Corporation and the University to discontinue the practice of extending employee fringe benefit programs to eligible same-sex domestic partners, and to do so in a manner and on a timetable that is fair and reasonable to those who currently are covered by such benefits.

2. Toward this end, the Board hereby approves, through the plan period ending December 31, 2016, the practice of extending the University’s existing employee fringe benefit programs to eligible same sex domestic partners of University faculty, staff and students on the same basis as such benefits are afforded to spouses of University employees, with this practice to expire at the end of such period, and the Prior Resolution is hereby modified accordingly.

3. The Chairman, Vice Chairman, Treasurer, Assistant Treasurer, Legal Counsel, Secretary and Assistant Secretary of the Corporation, and the Treasurer and Chief Financial Officer and the Senior Vice President and Assistant Treasurer of Purdue University, and each of said officers respectively, are hereby authorized and empowered for, on behalf and in the name of the Corporation, or of Purdue University, to take all necessary and proper actions to carry out the purpose and intent of this Resolution, including all necessary steps required by law and for effecting any applicable benefit plan amendments.