

**RESOLUTION #
INDEPENDENT SCHOOL DISTRICT NO. 709**

The School District Board of Education adopted the following resolution at the November board meeting:

WHEREAS, the Independent School District No. 709 (the "District") currently maintains a cafeteria plan pursuant to the requirements of Section 125 of the Internal Revenue Code called the Independent School District No. 709 Flexible Benefits Plan (the Plan), which provides for premium conversion benefits, health care reimbursement benefits and dependent care benefits; and

WHEREAS, the District wishes to amend the Plan to conform to the definition of "spouse" in Article II, paragraph 2.43 to be applied consistent with the applicable regulatory guidance, including IRS Revenue Ruling 2013-17.

NOW, THEREFORE, BE IT RESOLVED, that the District's Board of Education hereby approves this Resolution and amends the District's Flexible Benefits Plan and its component parts, such change is effective as of September 16, 2013.

BE IT FURTHER RESOLVED, that the appropriate designees of the District are hereby authorized and directed to execute and deliver all documents necessary for the proper implementation of the Plan to ensure that the amended restated Plan, hereby approved is in effect.

INDEPENDENT SCHOOL DISTRICT NO. 709

Date: _____

BY: _____
Board Chair

INDEPENDENT SCHOOL DISTRICT NO. 709
125 Flexible Benefits Plan

AMENDMENT

The employer sponsored 125 Flexible Benefits Plan has been amended as follows:

The definition of "spouse" has been revised to reflect the decision of the Supreme Court of the United States in *United States v. Windsor*, that section 3 of the Defense of Marriage Act (DOMA) is unconstitutional. The revised definition of "spouse" is intended to be applied consistent with applicable regulatory guidance, including IRS Revenue Ruling 2013-17. The old definition in Article II, paragraph 2.43 is hereby replaced with the new definition provided below, effective September 6, 2013.

Delete: Old definition in Article II, paragraph 2.43

2.43 - **Spouse**. "Spouse" means, for purposes of this Plan and each underlying Benefit available under this Plan, an individual who is married, for Federal income tax law purposes, to another individual of the opposite sex.

Replace with: New definition in Article II, paragraph 2.43

2.43 - **Spouse**. "Spouse" means, for purposes of this Plan and each underlying Benefit available under this Plan, an individual who is legally married to a Participant (and who is treated as a spouse as recognized to be legally married under the Code). This provision shall be administered consistent with applicable regulatory guidance, including IRS Revenue Ruling 2013-17.

125 Flexible Benefits Plan Summary of Material Modifications

The U.S. Department of Treasury, the Internal Revenue Service, and the U.S. Department of Labor have ruled that same-sex couples, legally married in jurisdictions that recognize their marriages, will be treated as married for Federal tax purposes. The ruling applies regardless of whether the couple lives in a jurisdiction that recognizes same-sex marriage or a jurisdiction that does not recognize same-sex marriage. For the purposes of this summary, jurisdiction means any state of the United States, or others as outlined in IRS Revenue Ruling 2013-17, dated August 29, 2013, and U.S. Department of Labor Technical Release 2013-04, dated September 18, 2013.

Please note, that the term legally married does not include a formal relationship recognized by a state that is not denominated as a marriage under state law, such as domestic partnership or a civil union, regardless of whether the individuals who are in these relationships have the same rights and responsibilities as those individual who are married under state law.

How Does This Impact Your 125 Flexible Benefits Plan for Tax Purposes?

- The cost of health insurance premiums for same-sex spouses should be treated the same as for opposite-sex couples – do not report as taxable wages (they are pre-tax benefits).
- Same-sex spouses may receive reimbursements from the Medical Flexible Spending Account for expenses incurred by the spouse - not reported as taxable income.
- Same-sex spouses may receive reimbursements from the Dependent Care Flexible Spending Account for expenses incurred by the spouse - not reported as taxable income.
- Change in Status rules apply and provide an opportunity to change an irrevocable election in the Flexible Benefits Plan.

Minnesota Specific: August 1, 2013, Minnesota legalized same-sex marriage. This state ruling, in conjunction with the recent Federal rulings, means that same-sex married couples in Minnesota will be treated the same under state and federal tax laws. For more information, see: <http://www.revenue.state.mn.us/businesses/withholding/Pages/Same-SexMarriage.aspx>

Iowa Specific: April 24, 2009, Iowa legalized same-sex marriage. This state ruling, in conjunction with the recent Federal rulings, means that same-sex married couples in Iowa will be treated the same under state and federal tax laws. For more information, see: <http://www.iowa.gov/tax/taxlaw/ssmarriage.pdf>

North Dakota Specific: North Dakota does not recognize same-sex marriage. Individuals who enter into a same-sex marriage in another state where it is recognized will not realize a “state” tax-favored benefit while domiciling in North Dakota. For more information, see: <http://www.nd.gov/tax/indincome/pubs/guide/same-sexmarriageguideline.pdf?20131014165854>

Wisconsin Specific: Wisconsin does not recognize same-sex marriage. Individuals who enter into a same-sex marriage in another state where it is recognized will not realize a “state” tax-favored benefit while domiciling in Wisconsin. For more information, see: <http://revenue.wi.gov/taxpro/news/130906.html>

This is a summary of the guidance that has been issued to date by the Federal agencies involved in this process. Nothing in this document should be taken as legal or tax advice. Please confer with your personal tax preparer on issues specific to you and your state tax law.