



Under NH RSA 457-A, partners to a civil union recognized under NH law are entitled to all the rights and subject to all the obligations and responsibilities provided for in NH law that apply to spouses, a man and a woman joined together in marriage pursuant to NH RSA 457.

Under the federal Defense of Marriage Act of 1996 (DOMA), “spouse” refers only to a person of the opposite sex who is a husband or a wife in marriage, defined as the legal union between one man and one woman.

The New Hampshire Retirement System (NHRS), established by NH RSA 100-A, is a contributory public employee defined benefit pension plan qualified under section 401(a) of the Internal Revenue Code (Code). In general, NHRS follows the provisions of NH state law. However, in order to retain its tax-qualified status, NHRS must also satisfy the requirements of federal law. If there is a conflict between state and federal laws, NHRS must satisfy federal law.

Certain sections of the Code, a federal law, apply only to “spouses” as defined by DOMA, and do not apply to partners to a civil union. As of the date of this publication, four identified differences are as follows:

1. A retired member’s civil union partner is not eligible for the medical subsidy.
2. If a retired member’s civil union partner is a named beneficiary under a survivorship option, the civil union partner is treated as a nonspouse beneficiary when determining the maximum survivorship percentage which can be paid upon the retired member’s death.
3. NHRS benefits paid to a member’s former civil union partner under a qualified domestic relations order are reportable to the Internal Revenue Service as taxable income to the member, not to the former civil union partner.
4. Upon the death of a member, his/her civil union partner may elect to have any NHRS lump sum death benefits either paid in cash or directly transferred by NHRS to an inherited individual retirement arrangement (IRA). No other transfers or rollovers are permitted.

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