

The Ongoing Impact of *U.S. v. Windsor* on Employee Benefits

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Nebraska Association of School Business Officials

State Convention

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Introduction

- Background regarding *U.S. v. Windsor*
- How does *Windsor* change the law?
- How do the changes affect your school district's employee benefits?
- What steps should you take now to address these changes?

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U.S. v. Windsor

- Section 3 of DOMA violates the Fifth Amendment's guarantee of equal protection.
- Generally, federal law will now defer to state law definitions of marriage.
- Section 2 of DOMA remains valid law

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Current guidance provided?

State of Celebration	State of Residence
DOL/ERISA	DOL/FMLA
IRS	SSA
U.S. Citizenship and Immigration Services	
Office of Personnel Management	
DOD	
HHS	
Department of State	

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What benefits and programs may be impacted?

- Retirement Plans
- Cafeteria Plans
- Health FSAs
- Dependent Care FSAs
- Health and Welfare Plans
- HRAs & HSAs
- FMLA
- COBRA
- HIPAA Special Enrollment
- Fringe Benefits

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Impact on Retirement Plans?

- Rev. Rul. 2013-17; Notice 2014-13
- Retirement plan documents and summaries
- Beneficiary designation forms, notices, plan distribution forms, communications
- Administration of retirement benefits
- Retroactive benefits claims

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Impact on Cafeteria Plans?

- Cafeteria plan, health FSA, and dependent care FSA documents
- Election changes related to a change in status

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Impact on FMLA?

- Depends on state of residence

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Impact on Payroll Practices?

- Tax reporting and payroll policies and procedures
 - Federal
 - Nebraska

Impact on COBRA?

- COBRA coverage to same-sex spouses
- Type of benefits offered
- Type of organization

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Action Steps for School Districts

- Notice 2014-19 will require most plan sponsors to amend their retirement plans by the end of the 2014 Plan Year
 - 403(b) Plans
 - 457(b) Plans
 - 401(a) Plans
- Consider any administrative changes to retirement plans.

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Action Steps for School Districts

- Review cafeteria plan documentation and benefits.
- Review any current domestic partner benefits.
- Review payroll practices.
- Monitor state and federal law updates, legislation, and regulations.

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New Rules Pay Stubs (LB560)

Make available a wage statement:

- identity of employer
- hours for which the employee was paid
- wages earned
- deductions made

Exception for overtime exempt EEs

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Background Checks (LB907)

Public employer shall not ask an applicant

- criminal record or history, until it has determined the applicant meets the minimum employment qualifications.
- Except schools and ESUs may ask about history re sexual or physical abuse

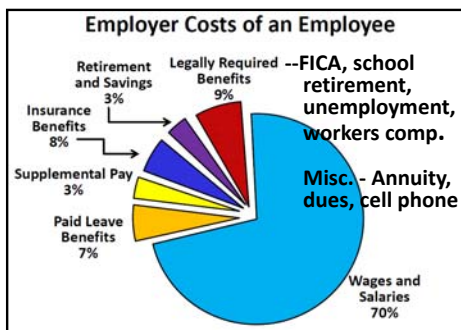
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Superintendent & ESU Administrator Contract Transparency (LB470)

- 3 days before approval of K or amendment, publish K or amendment & "a reasonable estimate and description of all current and future costs"
- W/in 2 days after approval, publish same & file a copy with NDE on/before Aug. 1st
- Penalty for failure to file: No state aid or RE taxes

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Contract Transparency



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Questions?

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