



## bulletin

### treatment of same-sex spouses

#### ***Obergefell* Decision**

On June 26, 2015, the United States Supreme Court issued its decision in *Obergefell v. Hodges* (*Obergefell*). This decision establishes that individuals in same-sex marriages (same-sex spouses) must be treated the same under law as individuals in opposite-sex marriages (opposite-sex spouses).

#### **Impact of *Obergefell* Decision on TRS Members**

As a legal matter, the *Obergefell* decision establishes that governmental pension plans, including TRS, cannot make distinctions between same-sex spouses and opposite-sex spouses in the provision of benefits or services. As a practical matter, the new legal requirement should have very little impact on TRS members. TRS law does not define either “spouse” or “marriage,” nor does it mandate benefits or limit benefits available to a beneficiary or joint annuitant based on a marital relationship between the member and the beneficiary/joint annuitant.

However, because Montana law on marriage, prior to the *Obergefell* decision, defined marriage as a relationship between a man and a woman and prohibited marriage between people of the same sex, other protections afforded to “spouses” under TRS law were not available to same-sex spouses, such as:

- the right to have a family law order entered to distribute TRS benefits in the circumstance of a divorce, and
- first priority as “next of kin” if a member dies without an effective beneficiary designation on file.

As well, a spouse may receive more favorable treatment, under IRS law, in the calculation of joint/survivor retirement benefits and in the rollover of tax-deferred funds to eligible retirement accounts.

#### **What Should a Member with a Same-sex Spouse Do?**

In order to ensure that your spouse receives all of the legal protections he or she is entitled to related to your TRS account, it is important that you specifically mark the “spouse” relationship status when designating your spouse as your beneficiary with TRS or when designating your spouse as your joint annuitant when electing a joint and survivor retirement benefit option (Option A, B, or C).

#### **Additional Information**

You may obtain additional information regarding TRS’s application of the *Obergefell* decision and treatment of same-sex spouses at [trs.mt.gov](http://trs.mt.gov). If you still have questions, please contact TRS at 406-444-3134.