

**SUMMARY OF MATERIAL MODIFICATION  
TO THE  
UTICA COLLEGE FLEXIBLE SPENDING ACCOUNT  
SUMMARY PLAN DESCRIPTION**

This Summary of Material Modification clarifies the term “spouse” as used in the Summary Plan Description for the Utica College Flexible Spending Account (the “Plan”). After reading it, you should attach it to your copy of the Summary Plan Description.

*Definition of “Spouse”*

The Plan is designed so that all contributions to the Plan and all benefits paid from the Plan are excluded from employees’ income for federal income and Social Security tax purposes. For this exclusion to apply, the Plan must comply with federal tax rules applicable to the Plan. One of those rules requires that the Plan provide benefits only for an employee’s spouse, an employee’s dependents for federal income tax purposes, and certain children of an employee through the calendar year they reach age 26 even if they are not the employee’s dependents.

Recently, New York joined other States that have legalized same-sex marriages. However, the federal Defense of Marriage Act of 1996 defines “marriage” as a legal union between a man and a woman, and “spouse” as a person of the opposite sex who is a husband or wife. These definitions apply for federal tax purposes. Therefore, payment of Plan benefits for an employee’s same-sex spouse would result in taxable income to the employee, be inconsistent with the purpose of the Plan, and could adversely affect the favorable tax treatment of all Plan contributions or benefits (unless the same-sex spouse qualifies as the employee’s federal income tax dependent).

Therefore, please keep in mind that whenever the term “spouse” is used in the Plan document or the Summary Plan Description, it means a person to whom a participant is legally married and who is treated as the participant’s spouse for federal income tax purposes.

**AMENDMENT  
TO THE  
UTICA COLLEGE FLEXIBLE SPENDING ACCOUNT**

The Utica College Flexible Spending Account is hereby amended by adding the following sentence to the end of Article 2 (Definitions).

The term "spouse" as used in this Plan means a person to whom a Participant is legally married and who is treated as the Participant's spouse for federal income tax purposes. By signing this instrument, the Employer approves and adopts this Amendment.

**Utica College**

By: Walter J. Quibers

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Date: 8/8/11

Utica College Flexible Spending Account