

Meeting, Nov 17, 2011, 3pm.

Invited Hoey Graham, Senior Associate General Counsel, U of I to discuss the legal history and possible future of domestic partner rights at University of Idaho.

The meeting was made open to interested members of Juntura as well as the broader campus community, but it was not an official committee meeting. There were about 15 individuals in attendance.

Mr. Graham outlined the history of an important court case in the State of Arizona that may have implications for the legal requirement for providing domestic partner benefits in states in the 9th circuit court along with Arizona.

In 2006 Idaho passed Amendment 2 known as a 'defense of marriage' amendment declaring that it is unconstitutional for the state to recognize or perform same-sex marriages or civil unions. The defense of marriage amendment process has been undertaken in many states (30 states had adopted some form at the time of this talk).

In Arizona there is a history relevant to this sort of amendment process. In April of 2008 the State of Arizona expanded their definition of 'dependents' in such a way that it allowed the state to extend medical benefits to domestic partners. In the Fall of 2008 voters in the state of Arizona passed Proposition 102 which amended the state constitution in Arizona with 'defense of marriage' language. In September 2009, the Governor of Arizona, in accordance with this newly passed proposition, narrowly defined 'dependents' as spouses only. This change made it illegal for the Arizona to extend domestic partner benefits henceforth.

In 2009 Arizona State employees filed a complaint. They claimed that the Governor's action violated the constitution's 14th amendment providing for equal protection under the law. The argument was based on the idea that extending benefits and then revoking them placed inequitable hardship on families who did not meet the strict definition of 'spouses', including families providing medical care for dependent adult family members.

The courts in Arizona granted a preliminary injunction that prevented the Arizona Governor's changes in law to go into effect until the case was heard --- thus, domestic partner benefits remained available.

The State of Arizona appealed this first decision. Upon appeal, the 9th Circuit court upheld the preliminary injunction. This move by the 9th Circuit court is important because legally it suggests a 'reasonable likelihood of success' when the case is finally heard in full, though the time frame for that process is somewhat unclear.

The implications for the State of Idaho are not legal at this point. Until the Diaz case is heard and a decision made, there are no legal implications. And even after that point in time, there are likely to be appeals and perhaps arguments that the decision will not be binding outside the State of Arizona.

Mr. Graham took questions from the group and the talk ended at 4pm.