

# Exelixis, Inc.

Domestic Partner Policy  
September 1, 2021



**EXELIXIS**<sup>®</sup>

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## Exelixis, Inc. Domestic Partner Policy

Exelixis, Inc. allows eligible domestic partners to qualify as dependents under our group health plan, which includes medical, dental, and vision care coverage. The domestic partner policy applies to regular employees, who meet all the terms and conditions for eligibility for group-sponsored health care coverage as described in the current version of the Summary Plan Description.

Domestic partners can qualify for benefits coverage in either one of two ways:

- Domestic partners are eligible for benefits coverage if the domestic partnership is registered with the California Secretary of State or the state in which you reside. To register as a domestic partnership in California, both individuals must file a “Declaration of Domestic Partnership” form with the California Secretary of State. The form and other information are available on the Internet from the official state government website, located at <https://www.sos.ca.gov/registries/domestic-partners-registry>. For other states, you must follow the requirements applicable in the state in which you reside. Employees who apply for coverage of registered domestic partners are required to complete the “Declaration of Domestic Partnership Registration” section of the Affidavit form (and provide a copy of the domestic partner certificate to the Human Resources Department for a mid-year enrollment).
- The second way for domestic partners to qualify for benefits coverage is through our “non-registered” domestic partnership policy, which is suitable for individuals who choose not to register their domestic partnership with the California Secretary of State or the state in which you reside. Employees who apply for coverage of non-registered domestic partners are required to submit an “Affidavit of Domestic Partnership” form to the Human Resources Department during enrollment.

In either case, the employee must apply for benefits coverage for the domestic partner, and the domestic partner’s eligible dependents (if any), within 31 days of registering the domestic partnership with the California Secretary of State or the state in which you reside, or, in the case of a non-registered domestic partnership, within 31 days of filing the “Affidavit of Domestic Partnership” form with the Human Resources Department. Domestic partners are also eligible for special mid-year enrollment for benefits coverage if the domestic partner terminates his/her employment and in other specified circumstances, as described in the summary plan description.

The employee must recognize this as taxable income for federal tax (and state tax if a non-registered domestic partner) and withholding purposes, the employer-paid cost of benefits coverage for the domestic partner and the domestic partner’s dependents (if any), unless the domestic partner, and the domestic partner’s dependents (if any), are considered the employee’s dependents for federal income tax purposes within the meaning of section 152 of the Internal Revenue Code (as modified by section 105(b)).

Employees who enroll their domestic partners for benefits coverage are required to notify the Human Resources Department within 31 days after the domestic partnership ends.

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## Completing the “Affidavit of Domestic Partnership” Form

In completing the “Affidavit of Domestic Partnership” form, the following terms have the meanings specified below:

- “*Reside together*” means that the two individuals share the same residence. It is not necessary that both individuals have the legal right to possess the residence (i.e. the lease or deed does not need to be in both names). Domestic partners do not cease to reside together if one temporarily leaves the shared residence, as long as the domestic partner intends to return to the shared residence within a period of time that a reasonable person would agree is “temporary.”
- “*Basic living expenses*” means the cost of basic food and shelter. The individuals do not have to contribute equally or jointly to these expenses, as long as they agree that both are responsible for these expenses.

Along with the completed form, the following documentation must be submitted to the Human Resources Department for a non-registered domestic partner:

- Proof that the employee and domestic partner reside together - e.g., drivers licenses or passports showing the same address, mortgage documents, or a deed.
- Proof of financial interdependence - e.g., a joint checking account, credit cards with the same account number in both names, designations of each other as authorized signatories on safe deposit boxes, joint wills, or powers of attorney for health care.

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## Benefits Coverage for Dependents of a Domestic Partner

Employees who enroll their domestic partners for benefits coverage may also enroll the domestic partner’s eligible dependents (if any). An “eligible dependent” of the domestic partner is defined as:

- A biological child, stepchild, adopted child, or foster child of the domestic partner who is under age 26.
- A child under age 26 for whom the employee assumes full parental responsibility and control by legal guardianship, including any and all debts incurred by the child (i.e., charges for health care services and supplies).

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## Effect of Termination of Domestic Partnership

When a domestic partnership ends, benefits coverage for the employee’s domestic partner and any eligible dependents will end according to the terms of the particular plan in which they are enrolled.

The employee is required to file a “Statement of Termination of Domestic Partnership” form with the Human Resources Department within 31 days after one or more of the criteria for a domestic

partnership relationship (as listed on the “Affidavit of Domestic Partnership” form) are no longer met, or in the event of the domestic partner’s death.

The employee cannot file an “Affidavit of Domestic Partnership” form with respect to a new domestic partnership until at least twelve months have passed after the employee submitted a “Statement of Termination of Domestic Partnership” form to the Human Resources Department. To allow for reconciliations of domestic partners, however, there is no waiting period required for filing a second “Affidavit of Domestic Partnership” form with respect to a domestic partner previously listed by the employee on both an “Affidavit of Domestic Partnership” form and a “Statement of Termination of Domestic Partnership” form. However, the employee must wait until the open enrollment period to add the domestic partner and any eligible dependents back to the Plan unless you experience a permitted election change event.

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### COBRA Continuation Coverage for a Domestic Partnership

A former employee’s domestic partner and any eligible dependents may be eligible for COBRA continuation coverage of benefits if the former employee is enrolled as a qualified beneficiary and receiving COBRA benefits.

If the former employee does not elect to continue coverage through COBRA, the domestic partner and any eligible dependents will not be eligible to continue coverage through COBRA unless the benefits package option offers “COBRA-like” coverage to domestic partners. Exelixis will offer COBRA-like coverage where permitted by the applicable insurance carrier.

# Affidavit of Domestic Partnership

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## A. Intent

EXELIXIS recognizes that many employees are engaged in an ongoing and committed spouse-like relationship with an adult of the same or opposite gender (referred to below as the “domestic partner”). This relationship includes residing together and being jointly responsible for each other’s common welfare and financial obligations. It is EXELIXIS’s intent to offer benefits, to the extent possible, to these employees’ domestic partners and the eligible dependent children of the domestic partner.

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## B. Declaration of Eligibility (complete only if you and your domestic partner have not registered as domestic partners within the State in which you reside)

(employee-print name) (domestic partner-print name)  
We, \_\_\_\_\_ and \_\_\_\_\_, each declare that we are domestic partners in accordance with the following criteria.

1. We have an ongoing and committed spouse-like relationship, which has existed for at least **12** months prior to the date of this Declaration.
2. We are both 18 years of age or older and competent to contract.
3. Neither of us is married, as defined by state law, nor the domestic partner of anyone else. We intend to remain each other’s domestic partner indefinitely. We are not related by blood to a degree of closeness that would prohibit legal marriage in the state in which we reside.
4. We have shared the same place of residence for at least the last **12** months immediately prior to the date of this Declaration and intend to do so indefinitely. We are also responsible to each other for the direction and financial management of our household and intend this to remain indefinitely. We are jointly responsible for each other’s financial obligations.
5. We are not in this relationship solely for the purpose of obtaining benefits coverage.

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## C. Declaration of Dependent Status (complete only if your domestic partner qualifies as a dependent for tax purposes):

(employee-print name)

1. I, \_\_\_\_\_ declare that my domestic partner meets the following criteria, as required by Code section 152 (as modified by section 105(b)):
  - a. My domestic partner is a member of my household and my home is my domestic partner’s principal place of abode; and
  - b. I provide over one-half of my domestic partner’s financial support.
  - c. I declare that I claim my domestic partner as a dependent on my income tax returns.

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D. Declaration of Domestic Partner Registration (complete only if you and your domestic partner have registered as domestic partners within the State in which you reside):

(employee-print name)

1. I, \_\_\_\_\_ declare that my domestic partner and I are registered as domestic partners in the State of \_\_\_\_\_. (Registration documentation required when enrolling mid-year.)

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E. Change in Domestic Partnership (complete for a non-registered domestic partnership)

1. I, \_\_\_\_\_, the employee, agree to notify EXELIXIS in writing within 31 (employee-print name) days if my partner, \_\_\_\_\_, no longer qualifies as a domestic partner as (domestic partner print name) attested to in this Declaration. This written statement of termination shall be provided on the EXELIXIS Declaration of Termination of Domestic Partnership form and shall affirm the date as of which the domestic partnership status is terminated. The domestic partner understands that the employee's notification to EXELIXIS at the end of domestic partnership status shall be the sole necessary evidence for EXELIXIS to consider the relationship terminated.
2. I, \_\_\_\_\_, understand that a subsequent Declaration of Domestic (employee-print name) Partnership cannot be filed until **12** months after the date a prior EXELIXIS Declaration of Termination of Domestic Partnership form is filled with EXELIXIS.

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F. Acknowledgements

1. We have provided the information in this Declaration for use by EXELIXIS for the sole purpose of determining eligibility of the domestic partner and dependent children of a domestic partner under those EXELIXIS policies, guidelines, practices and benefit plans that provide coverage for domestic partners as from time to time established by EXELIXIS. Certain of these benefit plans are subject to the Employee Retirement Income Security Act of 1974 ("ERISA").
2. We understand that in order for dependent children of a domestic partner to be eligible for benefits, the relationship between the domestic partner and the child must be the same as the relationship between the employee and any of his/her dependent children that could be covered under the benefit plan. In addition, the child of the domestic partner must reside with the employee full-time or in a shared custody arrangement.
3. **We understand that enrollment of a domestic partner and his/her dependent children in certain benefit plans may have tax implications for the employee.**
4. We understand that, in addition to this Declaration, certain benefit plans (e.g., health plans) may require the completion of forms to enroll or terminate a domestic partner.
5. We certify that the information on this form is complete, true, timely and correct, and we understand that failure to provide complete, true, timely, or correct information may result in loss

of benefit plan coverage, personal liability for incurred benefit plan expenses, and the employee's termination of employment.

6. We have read and understand the terms and conditions contained in this Declaration of Domestic Partnership.
7. We understand EXELIXIS reserves the right to amend or terminate any of its policies, guidelines, practices or benefit plans at any time.
8. We understand that if we make any changes to this form, this Declaration will be null and void and will not be given effect by EXELIXIS.

**Community Property and Common Law Marriage Considerations:**

Please be advised that some states have recognized non-marriage relationships as the equivalent of marriage for the purpose of establishing and dividing community property. Also, please be advised that this Declaration may establish some or all the requirements for a common law marriage or continuing support obligations under state law where applicable. You may want to consult legal counsel regarding these issues.

EXELIXIS reserves the right to request additional documentation to confirm the validity of your domestic partnership at any time.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Domestic Partner Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

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# Statement of Termination of Domestic Partnership

I, \_\_\_\_\_ certify and declare that:  
(Employee - print name)

\_\_\_\_\_ and I are no longer domestic partners as of \_\_\_\_\_.  
(Domestic Partner - print name) (Date)

I understand that coverage for this individual and his/her dependent children will terminate as of 11:59 p.m. on the last day of the month in which termination of the domestic partnership occurs.

1. The Affidavit of Domestic Partner attested to and filed by me with *Exelixis* shall be and is terminated as of this date; and
2. The termination of the Affidavit of Domestic Partnership is a result of either termination of the partnership or death of the partner; and
3. I understand that another Affidavit of Domestic Partnership cannot be filed until twelve months from the date the relationship ends (as indicated above); and
4. In the event that termination of this relationship is not due to the death of my domestic partner, I have mailed a copy of this notice to my former domestic partner at:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(former domestic partner's address)

I affirm that the above statements are true and correct.

\_\_\_\_\_  
(Employee's Signature)

\_\_\_\_\_  
(Date)



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# Summary of Tax Treatment of Coverage for Domestic Partners and Their Children

## Tax Consequences of Spousal Coverage

As discussed in more detail below, the federal tax treatment of the coverage provided to domestic partners and their children is not the same as the federal tax treatment of benefits provided to spouses. Under federal tax law, you may pay for coverage provided to your spouse on a pre-tax basis under the cafeteria plan, and no portion of the premiums paid by Exelixis will be included in your income or be subject to federal withholding or employment taxes. For this purpose, a spouse is a person of the same or opposite sex pursuant to a marriage that was validly entered into in a domestic or foreign jurisdiction whose laws authorized the marriage (even if a same-sex married couple currently resides in a domestic or foreign jurisdiction that does not recognize the validity of same-sex marriages).

## Tax Consequences of Domestic Partner or Child Coverage

Under federal tax law, the tax treatment of coverage provided to your domestic partner, or to the child of your domestic partner (who is not also your child), will depend on whether the enrolled individual qualifies as your tax dependent for health coverage purposes (as defined below).

If the enrolled individual *does not* qualify as your tax dependent for health coverage purposes (as defined below), then you will be unable to pay for that coverage on a pre-tax basis under the cafeteria plan. The value of the coverage provided, less the amount you pay for the coverage on an after-tax basis, will be included in your gross income, subject to federal income tax withholding and employment taxes, and will be reported on your Form W-2. This includes any portion of the premiums that Exelixis pays for the applicable health coverage. The value of coverage varies, depending on the medical and dental coverage options you elect.

If the enrolled individual *does* qualify as your tax dependent for health coverage purposes (as defined below), then you will be able to pay for the applicable coverage on a pre-tax basis under the cafeteria plan, and no portion of the premiums paid by Exelixis will be included in your income, or be subject to federal withholding or employment taxes.

### **Caution: State Tax Treatment May Differ.**

State tax treatment of health coverage for same-sex spouses, domestic partners, or their children may differ. For example, California excludes Registered Domestic Partner coverage from gross income for state income tax

purposes, even if the domestic partner is not a tax dependent for health coverage purposes under federal law. See your CPA, attorney, or other tax advisor for more information about state tax treatment.

### **Who Is a Tax Dependent for Health Coverage Purposes?**

The following conditions must be met in order for your domestic partner to qualify as your tax dependent for health coverage purposes under federal law:

- you and your domestic partner have the same principal place of abode for the entire calendar year;
- your domestic partner is a member of your household for the entire calendar year (the relationship must not violate local law);
- during the calendar year you provide more than half of the total support for your domestic partner;
- your domestic partner is not your (or anyone else's) "qualifying child" under Code §152(c); and
- your domestic partner is a U.S. citizen, a U.S. national, or a resident of the U.S., Canada, or Mexico.

Your domestic partner could be your federal tax dependent for health coverage purposes even if you do not claim an exemption for him or her on your Form 1040.

To determine whether you provide more than half of the total support for your domestic partner, you must compare the amount of support you provide with the amount of support your domestic partner receives from all sources, including Social Security, welfare payments, the support you provide, and the support your domestic partner provides from his or her own funds. Support includes food, shelter, clothing, medical and dental care, education, and the like. If you believe you might provide more than half of the support for your domestic partner, you should use the support worksheet in IRS Publication 501 (Exemptions, Standard Deduction, and Filing Information) before you complete the Tax Certification described below.

Domestic partners who are subject to state community property laws (there are nine community property states, including California) may need to consider the impact of those laws on the support test. See IRS Publication 555 (Community Property) and Answers to Frequently Asked Questions for Registered Domestic Partners and Individuals in Civil Unions (<http://www.irs.gov/uac/Answers-to-Frequently-Asked-Questions-for-Registered-Domestic-Partners-and-Individuals-in-Civil-Unions>).

The child of your domestic partner (who is not also your child) may qualify as your tax dependent for health coverage purposes under federal tax law by satisfying the above test or the "qualifying child" test. It can be more difficult for the child of your domestic partner (who is not also your child) to satisfy these tests and qualify as your tax dependent for health coverage purposes. The child can also receive tax-free health coverage if he or she is your stepchild under the laws of the state in which you and your domestic partner reside, and the child is under age 27 as of the end of the taxable year.

You must consult your CPA, attorney, or other tax advisor for the information needed to determine whether your domestic partner or domestic partner's child(ren) qualify as a tax dependent.

Whether a person is a tax dependent for health coverage purposes depends on facts solely within your knowledge. Consequently, Exelixis cannot make this determination for you. You must consult your CPA, attorney, or other tax advisor for the information needed to determine whether your domestic partner or domestic partner's child(ren) qualify as a tax dependent.