

The
**Domestic
Partnership
Organizing
Manual**

for employee benefits

by Sally Kohn



THE POLICY INSTITUTE
OF THE
NATIONAL GAY AND LESBIAN TASK FORCE

HOW DOMESTIC PARTNERSHIP IS DEFINED

Just as the term "family" can be described in a variety of ways, the construct "domestic partner" does not adhere to one, universal definition. Instead, each company, university, state or local government must choose how to define the concept in their benefits administration. While it may seem like a lot to tackle, DP benefits plans are actually rather simple to design and implement. The information in this section is designed to assist employee organizers, managers and human resource specialists in establishing DP benefits.

DP or Not DP...

While "domestic partnership" is the most common term, companies have demonstrated some creativity in generating substitute terminology, including:

- Life partner
- Spousal equivalent
- Functional marriage equivalent
- Alternative family
- Family type unit

Yet terms are less important than the meanings behind them. What matters most is that the domestic partnership be defined in a fair and inclusive manner so that the term becomes synonymous with fully valuing family diversity.

Core Definition

In general, "domestic partnership" has been defined as an ongoing relationship between two adults of the same-or opposite-sex who are:

- (a) sharing a residence,
- (b) over the age of 18,
- (c) emotionally interdependent,
- (d) and intend to reside together indefinitely.

Beyond this basic framework, however, employers have defined DP in a number of ways to determine which members of an employee's family will qualify to receive benefits.

Who Will Be Included

SAME- AND OPPOSITE-SEX POLICIES

Ideally, employers include unmarried, opposite-sex partners as well as same-sex partners in their DP benefits policies. The goal of DP benefits is to allow the concept of family to include a diversity of relationships, including those that are not formally recognized through marriage. Many heterosexuals have strong personal, political, philosophical, economic, or religious reasons for not pursuing legal marriage. A benefits policy which includes unmarried, heterosexual couples acknowledges these personal choices and expands the definition of "domestic partnership" to better recognize the true diversity of families.

SAME-SEX ONLY POLICIES

Many employers choose to extend benefits only to the same-sex domestic partners of employees, excluding unmarried, opposite-sex couples. Their rationale for doing so is that heterosexual employees have the option of marriage, whereas GLBT employees do not have the same legal ability. This logic is flawed in that it discriminates against employees on the basis of marital status, and several same-sex-only policies have been legally challenged based on this argument. For example, Bell Atlantic is currently being sued by a heterosexual domestic partner who is denied benefits by the company's same-sex-only policy. Whether or not the courts deem such policies to be discriminatory in the legal sense, same-sex only policies are clearly exclusionary. Today, more and more employers are opting for a broader definition of "domestic partnership" that includes opposite-sex and same-sex partnerships.

FYI...

The State Labor Commissioner of California ruled that the Oakland, CA, same-sex-only benefits policy discriminates against heterosexuals in violation of the labor code.⁵ Similarly, the University of California same-sex DP benefits policy has been criticized as highly discriminatory.⁶

ALL-INCLUSIVE POLICIES

A select number of employers have chosen to allow more flexibility in the definition of DP. Most notably, BankAmerica allows employees to designate any member of their household as a recipient of their health benefits, whether the person be a married spouse, unmarried domestic partner or relative, such as a sibling or parent.⁷ While few employers have adopted this type of policy, it is by far the most ideal, allowing for a wide variety of family relationships, intimate or otherwise, which exist and granting workers the security they need to meet their family obligations.

Still, this policy option often requires that the non-DP or non-spouse beneficiary be a dependent of the employee under IRS regulations (i.e., received more than 50% of financial support from the employee). Ideally, companies would allow employees to designate any one member of their household (and their dependent children) to receive benefits, regardless of their dependent status.

FYI...

The San Francisco-based Catholic Charities allows an employee to "designate a legally domiciled member of the employee's household as being eligible for spousal equivalent benefits."⁸ Catholic Charities adopted their more-inclusive policy as a means of offering domestic partnership benefits without acknowledging intimate same-sex or unmarried opposite-sex relationships in specific.

DOMESTIC PARTNERS' CHILDREN

Whether adopting a same-sex or same- and opposite-sex definition of DP, employers must decide if they will include the dependent children of domestic partners in their coverage. Since traditional benefits policies include the dependent children of an employee's spouse, even if the employee is not the natural or adoptive parent of the children, it is most equitable for benefits to be extended to the dependent children of domestic partners as well.

AFFIDAVITS

Some employers ask employees to sign an affidavit verifying the existence of the domestic partnership and attesting to certain conditions (e.g., financial interdependence, sharing a common residence). In the context of these affidavits, employers often require that employees provide additional documents

Verifying the Domestic Partnership



The Policy Institute National Gay and Lesbian Task Force

June 2, 1999

Thomas F. Coleman, Executive Director
Spectrum Institute
American Association for Single People
P.O. Box 65756
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Dear Tom:

Thank you for all of your assistance in helping me to create *The Domestic Partnership Organizing Manual* for the Policy Institute of the National Gay and Lesbian Task Force. Your vast expertise in the area of domestic partnership policy was tremendously useful in crafting this key resource for the lesbian, gay, bisexual, transgender (GLBT) and ally community.

I am particularly appreciative of the perspective you lent with regard to domestic partnership benefits and their importance to unmarried, heterosexual couples. Your advocacy on behalf of these constituents was one of the driving forces behind the manual's strong stance favoring domestic partnership benefits for all, rather than solely GLBT couples. In my consultations with companies and individuals working toward domestic partnership benefits, many have been persuaded to include opposite-sex, unmarried couples in their policies as well. The work that you do and the arguments you further continue lay the groundwork for these accomplishments.

Once again, thank you for contributing all of your knowledge and support. I look forward to collaborating with you again on future projects.

Sincerely,

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Quotes from

**“Recognizing Lesbian & Gay Families:
strategies for extending employment benefit coverage”**

**A publication of the
LESBIAN RIGHTS PROJECT
San Francisco, California**

EXCERPTS FROM PAGE 23

“One question that will inevitably arise is whether unmarried heterosexual couples should be able to qualify for family partner benefits.”

“[M]ost individuals and groups which have been involved in the attempt to extend benefit coverage have eventually concluded that coverage should not be limited to same-sex couples.”

“It seems excessively judgmental to refuse to include those heterosexuals who have rejected the traditional marriage relationships. Heterosexual employees who are in stable and committed relationships should qualify for benefits for their partners for the same reasons that gay employees should. Succumbing to the institution of marriage, with its centuries-old cultural, religious and often oppressive overlays should not be necessary in order to provide for one’s loved one.”

“Including unmarried heterosexual couples in benefit schemes averts charges of discrimination, and makes a proposal more palatable to unions, fellow employees and the public.”

DOMESTIC PARTNERSHIP

A SECULAR INSTITUTION FOR NONMARITAL HOUSEHOLDS

Domestic partnership was conceived as a gender-neutral relationship open to any two single adults regardless of sex or sexual orientation; recent attempts to limit it to same-sex couples distort the concept.

Domestic partnership was not intended as a substitute form of marriage for same-sex couples; it was always envisioned to be a family unit open to any two adults living together in a nonmarital household.

This philosophy of inclusion is based on several fundamentals:

The constitutional right of privacy protects the freedom of choice of single adults to form the family unit which they believe best serves their needs.

Discrimination on the basis of marital status, sex, and sexual orientation should be eliminated from public policies and private-sector programs.

Limiting domestic partnership to same-sex couples, on the theory that opposite-sex couples have the option of matrimony, ignores the millions of opposite-sex cohabitants who, for reasons of their own, do not wish to marry.

A gender-based limitation on domestic partnership not only shows disrespect for family diversity and freedom of choice, but it reinforces existing marital status discrimination.

Denying domestic partnership protections and benefits to adults who are living with a person of the opposite sex is blatant sex discrimination, which has the effect of denying these benefits to the majority of domestic partners.

Cost has never been considered to be a legal excuse to discriminate. Nonetheless, the fiscal impact of expanding employee benefits programs to include all domestic partners regardless of gender is negligible. Also, public registries do not cost taxpayers anything.

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Opinion

Domestic partners: Let's expand the family

By **Thomas F. Coleman**

For years, the Philadelphia City Council has struggled over the issue of domestic partnership benefits. The council appears politically divided, with some members favoring a "gays-only" proposal, others wanting a more inclusive measure, and still others adamantly opposed to any reform.

After a meeting with gay and lesbian leaders, Council President John Street recently agreed to schedule hearings, possibly by the end of this month. In response, Cardinal Anthony J. Bevilacqua sent a letter to 121 Catholic parishes urging parishioners to sign petitions against benefits for same-sex couples.

But the most important issue is not merely whether the bills should pass, but whether *all* domestic partners should be included. Will the politics of inclusion carry the day, or will we keep trying to see this as special-interest legislation?

Most municipalities offering such benefits extend them to all domestic partners, regardless of gender. Of nearly 40 cities and counties with such plans, only seven restrict participation to gay and lesbian couples. New York and Boston considered and rejected a gays-only approach to domestic partnership.

A diverse coalition of groups supports an inclusive approach. The National Organization for Women supports domestic partnership laws that do not discriminate based on sex. The American Association of Retired Persons and the Older Women's League have lobbied for domestic partnership bills that protect same-sex and opposite-sex domestic partners alike.

Public opinion seems to favor this approach as well. Opinion polls reveal that the public does not believe that two people must be married in order to be a family. (That may well reflect reality in a town such as Philadelphia, in which only 38 percent of households contain a married couple.) Polls also suggest that the public may see this as a fairness issue, with most respondents supporting the notion that single workers should not have to get married in order to receive equal pay at work.

The most vocal critics of domestic partnership legislation, including Philadelphia's Catholic Archbishop, cite moral objections against rewarding so-called sinful sexual behavior. This argument would be diffused if the council moves away from the current gays-only proposals and instead adopts an inclusive plan that keeps sexual conduct out of the picture.

Philadelphia should look at the benefits page in Bank of America's personnel manual. Just this year, the bank expanded its benefits to cover "extended family" members of employees.

Under its program, each bank employee may designate one adult household member to receive benefits, so long as the beneficiary is either a spouse, a domestic partner of the same or opposite sex, or a close blood relative under age 65 who is a federal tax dependent of the employee. If a conservative bank can adopt the politics of inclusion, why can't the Philadelphia City Council?

An inclusive plan eliminates the presumption of sexuality from a benefits reform package. That is why the Conference of Catholic Bishops in California agreed to withdraw opposition to domestic partnership health benefits so long as blood relatives are not excluded from participation.

Other religious support for inclusive domestic partner health benefits is growing. For example, a group of 11 ministers in California -- representing the Episcopal, Catholic, Methodist, Lutheran, and Presbyterian faiths -- recently sent a joint letter to the California legislature supporting an inclusive domestic partner health benefits bill. Even the Catholic Archdiocese in San Francisco now gives health benefits to one member of an employee's household, who can be a spouse, a domestic partner, or a blood relative.

What's good enough for these Catholic and Protestant ministers and bishops should be morally acceptable to the Philadelphia City Council.

An inclusive plan would not have a high price tag. Reliable studies show that plans offering health benefits to both gays and straight domestic partners increase costs, on average, by only about 1 percent. The addition of some dependent blood relatives who live with an employee might increase that percentage slightly, but it won't break the bank.

Thomas F. Coleman is executive director of Spectrum Institute, a national think tank on family diversity and marital status.

Foes see a veil on Prop. 22

RIGHTS: Many gays don't want marriage and say the measure isn't about that.

January 3, 2000

By **MARTIN WISCKOL**
 The Orange County Register

Most lesbians and gays do not want same-gender marriages, according to polls by both sides of Proposition 22, the initiative that calls for the state to recognize marriage only between a man and a woman.

Yet lesbian and gay activists are nearly unanimous in their opposition to Prop. 22. They say that the March ballot measure is not truly about marriage and that gay marriage would remain illegal in the state even if the measure is defeated.

Rather, opponents worry that the real motive of the initiative is to arouse anti-gay sentiment, launch a counteroffensive on the legislative gains gays are making in Sacramento, and marginalize homosexuals.

"For somebody who doesn't look into it, (Prop. 22) seems very reasonable," said Christopher Gilbertson, president of the Orange County Log Cabin Club, a group of gay GOP activists. "But it's just another slap at the gay and lesbian community. It encourages hate crimes and discrimination."

Many Prop. 22 advocates bristle at Gilbertson's characterization. This so-called discrimination, they say, is really just withholding rights that promote homosexuality. These rights include laws and proposed laws concerning adoption, school curricula, health benefits, and discrimination in housing and employment.

The lead spokesman for the Prop. 22 campaign ardently steers clear of debates over these pieces of legislation.

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"This is not about any of those issues," Robert Glazier says. "Our issue is simple. Marriage is between a man and a woman, and we don't want that changed."

But other Prop. 22 supporters are quick to say that the initiative is only part of the agenda.

"The consequences of the initiative go far beyond marriage," said Assemblyman Dick Ackerman, R-Fullerton, who opposed the three gay-rights bills signed into state law this year — two anti-discrimination measures and a state domestic-partners registry for gay couples. "It sends a message to the governor and the Legislature on all these issues."

A BLOW TO OTHER RIGHTS?

Lesbians and gays do not necessarily want the right to marry. Both sides said their polls found a clear majority of homosexuals did not favor gay marriage.

But they do want other rights, including many of the legal benefits and responsibilities of married couples. They say that passage of Prop. 22 would be a blow to efforts to gain those rights.

Gays have found allies among high-profile politicians.

Democratic presidential candidates Bill Bradley and Al Gore, Tom Campbell, a California GOP candidate for U.S. Senate, and U.S. Sen. Barbara Boxer, D-California, all oppose homosexual marriage and also oppose Prop. 22.

"Bringing this up can't help but divide the state," said Campbell, a San Jose congressman.

Some Prop. 22 opponents are against gay marriage because, they say, society isn't ready for it and it would attract a hateful backlash. Others are unimpressed with the institution of marriage.

"Sometimes lesbians see the institution of marriage as patriarchal," said Tricia Aynes, spokeswoman for the Gay and Lesbian Center of Orange County. "And some (gays) see it strictly as a heterosexual institution."

A significant portion of Prop. 22 opponents, including Campbell, say the issue of marriage should be left up to the church.

CALIFORNIA SENIORS

SUPPORT

DOMESTIC PARTNERSHIP

RIGHTS & BENEFITS

**FOR ALL COUPLES,
REGARDLESS OF GENDER**

**PROPOSED LEGISLATION,
LETTERS OF SUPPORT,
POLICY STUDIES**

1994 TO 1998

**SPECTRUM INSTITUTE
FAMILY DIVERSITY PROJECT
MARCH 1998**

Seniors Support Domestic Partnership Protections

The Public and Religious Leaders Agree

Legislative proposals to extend basic humanitarian protections and various employment benefits to domestic partners have been debated in Sacramento for the past several years. All major seniors' groups in California have strongly supported these bills.

With backing from AARP, Older Women's League, California Senior Legislature, Gray Panthers, and the Congress of California Seniors, and other seniors' organizations, many of these bills have been favorably approved by policy and fiscal committees, and one passed both houses of the Legislature.

Unfortunately, Governor Pete Wilson has a problem with granting inheritance protections, hospital visitation rights, and conservatorship priority to unmarried couples who are living together in a non-marital family unit as domestic partners. Wilson is not only out of line with what many seniors want, he is badly out of touch with the general public.

A recent California Poll shows that 67% of the public "would favor a law granting legal recognition to domestic partners living together in a loving relationship to have family rights, such as hospital visitation rights, medical power of attorney, and conservatorship." AARP, which represents some 3 million seniors in the Golden State, has lobbied consistently for passage of such a bill.

About 59% of the public favors legislation that "would grant financial dependent status to domestic partners, whereby partners would receive benefits such as pensions, health and dental care coverage, family leave, and death benefits." More than 1,200 employers in California currently offer some or all of these benefits to workers and/or retirees. The vast majority of these plans are open to all domestic partners regardless of the gender of the partners.

The National Organization for Women "supports fair domestic partnership laws that do not discriminate based on sex." The California Labor Commissioner has ruled that plans excluding opposite-sex partners are illegal as sexual orientation discrimination.

More than 30 municipalities and school districts in California now offer health benefits to domestic partners regardless of gender. However, two public

employers have stubbornly refused to be inclusive. The University of California regents and the Oakland city council seem to be unconcerned about the impact such discrimination has on retirees and workers who live with a member of the opposite-sex.

A recent study done by the national AARP of older adults living in nontraditional households reports more than 3 million unmarried-partner households among adults of all ages in the United States. Of these, 95% are opposite-sex partner households.

The AARP study estimates more than 1.6 million older adults live either with a partner or a roommate. Among the older adults who said they are "unmarried partners," 93% are in a male-female relationships. A majority of those having a "roommate" live with a member of the opposite sex.

"Same-sex only" programs exclude the majority of domestic partners and hurt many older adults in the process. Unless seniors groups make sure their voices are heard, letting politicians know that they are a major part of the domestic partner benefits coalition, other employers may use cost as a false excuse to exclude opposite-sex partners.

Studies show that fiscal impact is minimal even when opposites-sex and same-sex partners are covered. On average, costs increase by about two percent.

Many religious leaders support the extension of benefits to domestic partners regardless of gender. The national Episcopal Church now gives such benefits to its workers. The Catholic Archbishop of San Francisco approved benefits for any member of an employee's household, whether a spouse, domestic partner, or blood relative. And 11 ministers of various faiths in Sacramento support a bill making health benefits more available to domestic partners.

With backing from most of the public, many religious leaders, and all major seniors' groups, domestic partnership protections will be available someday to all nonmarital households in California, regardless of the gender of the partners. That's how it should be.

-- Thomas F. Coleman
Spectrum Institute

**SENIORS' GROUPS SUPPORTING
DOMESTIC PARTNERSHIP LEGISLATION**

American Association of Retired Persons
(1994: AB 2810 / 1997-98: AB 54)

Area Agency on Aging
(1997-98: AB 54)

California Commission on Aging
(1994: AB 2810 / 1995: AB 647 / 1997-98: AB 54)

California Senior Legislature
(1994: AB 2810 / 1995: AB 647 / 1997-98: AB 54)

Coalition of California Seniors
(1994: SB 2061, AB 2810)

Congress of California Seniors
(1994: AB 2810 / 1995: AB 647 / 1997-98: AB 427, AB 54, AB 1059)

Gray Panthers
(1994: AB 2810 / 1995: AB 647)

Triple-A Council of California
(1994: AB 2810 / 1995: AB 647 / 1997-98: AB 54)

Older Women's League
(1994: AB 2810 / 1995: AB 647 / 1996: AB 3332 / 1997-98: AB 54, AB 1059)

What Seniors' Groups Have Said About Domestic Partnership Proposals

American Association of Retired Persons

“The AARP State Legislative Committee, representing over 3 million members in California, voted to support AB 54 (Murray), as introduced December 2, 1996; an act relating to domestic partnership; registration and termination. . . .

“This is an issue of importance to the senior community due to the large number of senior citizens who gain companionship, security, and independence by living with a partner, but choose not to marry due to laws and regulations governing Social Security benefits, pensions, and family obligations.”

Older Women's League of California

“The Older Women's League is pleased to be able to respond to your request for support for AB 54 . . . [M]any seniors find a domestic partnership the only alternative to deal with establishing a permanent relationship with another senior. Some seniors are widowed and their social security would be cut if they remarried . . . We also have women who find joining with another woman preferable to living alone for both social and economic reasons.
. . .

“We are concerned with older men and women who need a close support system to take care of such matters as hospital visitation and conservatorships. We believe that a domestic partnership would be a great advantage to such people.”

California Commission on Aging

“Over 145,000 older and disabled persons in California are living together and are unmarried (1994 - California Department of Finance). . . . Creating a statewide registry for domestic partners will provide enhanced emotional and economic security for many of California's seniors. Registration will also provide for hospital visitation rights when a partner becomes ill, conservatorship rights if a partner becomes incapacitated, and the transfer of property to the surviving partner.” “[AB 54] is an important bill to seniors.”

Area Agency on Aging

“[AB 54] regards the rights of domestic partners. Older persons are clearly one of the prime beneficiaries of this bill. As you may know, some older persons live together to avoid financial penalties imposed by retirement pensions for married couples. This in no way decreases their commitment to each other but does simplify their lives.

“We believe that this bill presents a realistic view of today’s family and indeed promotes the value of family. It would also give domestic partners conservatorship rights and a domestic partner option on the official State Will form.”

California Senior Legislature

“The California Senior Legislature (CSL) supports AB 2810 . . . relating to domestic partnerships. Recognizing domestic partnerships and providing various benefits for those partners, acknowledges what many older people have already discovered. Senior citizens have long been aware of the benefits of cohabitation and mutual dependence (whether financial,, emotional, physical or otherwise) in order to improve the quality of their lives.”

Congress of California Seniors

“The legislative committee of the Congress of California Seniors unanimously adopted a support position on AB 2810. . . This bill would allow rights given to other relationships to be extended to domestic partners. This legislation is right and is long overdue.”

Gray Panthers

“We are writing in support of your Assembly Bills, AB 2810 and AB 2811. The provisions in these bills recognize changing lifestyles and a sensitivity to those changes. Too frequently, we have found, that when a significant other is hospitalized, it is not possible to be there to comfort. Your measure would assure that other than blood relatives have a right to be at the bedside of a sick or dying friend.

“Although some of the issues are marred by unfeeling and intolerant persons, we believe that it is time to acknowledge alternatives in living. Civilized society must advance and throw off prejudices which are unfitting in the modern world.”