



**ATHE Domestic Partner Benefits Position Paper
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Introduction

We address this position paper to ATHE members and to department chairs, deans, and university presidents. This position paper argues for the crucial need for public and private university theatre and performance studies departments as well as other departments which employ theater, drama and performance studies faculty such as language departments, cultural studies programs, and communication departments to advocate for their universities adopting policies that support the rights, dignity, and equal access to benefits for all of its faculty who qualify for benefits based on rank and position. ATHE believes that benefits should accommodate the changing demographics of American families. Specifically, we are advocating for the adoption of domestic partner benefits that demonstrate a commitment to non-discrimination in the support of the health and well-being of all faculty.

ATHE supports and advocates for adopting domestic partner benefits packages for faculty who have same and opposite sex domestic partners. Following the Human Rights Campaign Foundation (HRC), we define domestic partners as two individuals who are in a long-term committed relationship and are responsible for each other's financial and emotional well-being. Employers usually set their own definitions of domestic partner when they decide who is eligible for domestic partner benefits. Such definitions frequently require that the partners have lived together for at least six months, are responsible for each other's financial welfare, are at least 18 years old and are mentally competent to enter into a legal contract.

Domestic partner benefits include compensations such as health insurance, dental care, relocation expenses, family leave, and the like.

Domestic Partner Benefits: Stand and Be Counted

In the May 2005 issue of ATHENEWS, ATHE's President Karen Berman addressed the importance of partner benefits in her article "Stand and Be Counted." She noted that "Many of our academies do not yet offer domestic partner benefits, making it difficult for theatre faculty both economically and morally," and urged ATHE members to become part of the solution by supporting and devising a position paper. As President Berman asserted, many advances have been made, but we have more to make:

According to the Human Rights Campaign Foundation (<http://www.hrc.org/>), 294 colleges and universities offer a type of domestic partner health benefits. Many top schools offer some coverage, including Brown (since 1994), Columbia (1994), Dartmouth (1994), Duke (1994), Harvard (1994), Northwestern (1995), Princeton (1994), Rice (2000), Stanford (1993), University of Chicago (1993), University of Pennsylvania (1994), and Yale (1994). I am based in the D.C. area, and American University (1992) and George Washington University (2002) both offer coverage.¹ Loyola Marymount is one of the few exceptions to offer partner benefits among Catholic Universities.

The public has something to say on the subject as well. In 1997, a survey conducted by the Princeton Survey Research Associates found that 62% of respondents supported domestic partner health insurance for same-sex couples. Statistics like these are encouraging. However, more needs to be done.

We advocate for action, from advocacy on an inter/national level for fair family benefits for educators, to a change in benefits policy at those remaining institutions that do not provide equal medical benefits to legally domiciled adults, specifically including same-sex domestic partners.

ATHE believes that this action is especially urgent, given the ways in which faculty rights are currently being put under fire in some parts of the United States in the area of domestic partner benefits, as documented by Peter Schmidt and Thomas Bartlett in their recent articles for *The Chronicle of Higher Education*. As Schmidt and Bartlett note, both public and private universities are finding ways to advocate for rights for LGBT faculty in the area of domestic partner benefits. ATHE urges its membership as well as

¹ Since President Berman's statement was published, Georgetown University in DC has approved a policy to expand medical insurance beginning January 2006 for "legally domiciled adults." The legally domiciled adult (LDA) must be either someone "with whom the person has a close personal relationship and is financially interdependent, or a dependent blood relative such as an elderly parent or grown child." Same-sex domestic partners are included in this policy. See <http://insidehighered.com/news/2005/11/08/gtown>.

university administrators to take a stand now and advocate for domestic partner benefits for same and opposite sex partners on all campuses.²

Domestic Partners Benefits: Financial Impact to Institutions

One question a university might ask is, “What will be the cost to our institution if we offer domestic partner benefits?” ATHE is pleased to report that, according to extensive research by the HRC, costs to businesses and institutions are estimated at no more than 1-3 percent increase, with 1-2 percent being the average increase. According to the HRC,

Research by the Institute for Gay and Lesbian Strategic Studies Research Director M.V. Lee Badgett found that most employers that offer domestic partner benefits to same-sex partners find expenses rise no more than 1 percent. For employers that offer them to same- and opposite-sex partners, expenses tend to rise no more than 2 percent. A 1997 study by the Society for Human Resource Management found that 85 percent of employers experience no cost increase as a result of providing domestic partner benefits.³

To cite a specific case, at the University of Alabama in 1999-2000, the impact of extending domestic partner benefits was less than 2 per cent on the over all budget, which included medical benefits, insurance benefits and the ability to take classes on campus.⁴

At Miami University in Ohio, benefits available to gay or lesbian couples who are at least six months into a long-term relationship and who share financial obligations cost the

² As Bartlett notes in his discussion of struggles and successes for LGBT faculty on private college campuses, “One of those successes was Georgetown University’s announcement last month that domestic partners can now be included on its health-care plan. Another was the recent approval of a minor in gay and lesbian studies at DePaul University, a step that many supporters are calling a significant milestone.” See Thomas Bartlett, “Coming Out of the Catholic Closet,” *The Chronicle of Higher Education*, 9 December 2005. <<http://chronicle.com>>. Site visited 10 December 2005. In his article, Peter Schmidt focuses on public universities, citing the case of an “Ohio lawmaker [who] has filed a lawsuit arguing that Miami University’s policy of offering benefits to same-sex domestic partners of its employees violates an amendment to the state’s Constitution banning civil unions. The dispute puts Ohio among a growing number of states where the ability of public colleges to offer such benefits has been challenged in legislatures or the courts. A spokesman for the university, Richard Little, said it had no plans to rescind its policy, which provides benefits to about 30 same-sex partners of employees.” See Peter Schmidt, “Ohio Lawmaker Sues University to End Benefits for Domestic Partners,” *The Chronicle of Higher Education*, 9 December 2005. <<http://chronicle.com>>. Site visited 10 December 2005.

³ A more comprehensive discussion of the cost to the employer associated with providing domestic partner benefits is provided on the Human Rights Organization website (<http://www.hrc.org>).

⁴ Deborah Martin, email to Jennifer Renee Danby, 8 November 2005.

university less than \$100,000 per year, out of a total annual budget for faculty and staff benefits of more than \$50 million.⁵

It is important to foreground that domestic partner benefits are considered taxable income by the IRS. The employee who elects to take this coverage for his or her domestic partner is responsible for paying this taxable income, and is not an added cost to the institution who elects to provide this coverage. As noted by HRC,

The Internal Revenue Service has ruled that domestic partners cannot be considered spouses for [federal] tax purposes. Thus, employers are obligated to report the fair market value of the domestic partner coverage as income to the employee. The employee must pay income tax on that money. Domestic partner benefits may be considered non-taxable only if the domestic partner meets the IRS definition of a "dependent." Internal Revenue Code Section 152 defines a dependent as someone who resides in the employee's household and who receives at least half of his or her support from the employee.⁶

Also according to the HRC,

Most organizations that cover domestic partners are confident that the risk of incurring additional catastrophic cost is minimal. The number of employees who actually enroll in the benefits plan remains low and the overall increase in health insurance costs as a result of extending domestic partner benefits is usually very low [...] Finally, we must take into account the value of domestic partner benefits in attracting and keeping good employees, adding to staff diversity and satisfaction and increasing productivity by providing a safety net to employees with an uninsured partner at home.

ATHE believes that the value to the institution in adopting domestic partner coverage is well worth the estimated 1-2% minimal cost increase to the institution that offers these benefits.

Benefits and Supporting the Teacher and Performer in Higher Education

In ATHE's *Guidelines for Evaluating the Teacher/Performer for Promotion and Tenure*, the statement of purpose asserts that

The Association for Theatre in Higher Education (ATHE) is an organization of individuals and institutions that provides vision and leadership for the profession and promotes excellence in theatre education. ATHE actively supports scholarship

⁵ According to Richard Little, a spokesman for the university, as quoted in Peter Schmidt, "Ohio Lawmaker Sues University to End Benefits for Domestic Partners," *The Chronicle of Higher Education*. 9 December 2005.

⁶ Source <http://www.hrc.org>.

through teaching, research, practice and serves as a collective voice for its mission through its publications, conferences, advocacy, projects, and collaborative efforts with other organizations. ATHE suggests criteria for the evaluation of teacher/performers for tenure and promotion.⁷

We ask ATHE members to consider how non-inclusive benefit policies may adversely affect faculty. Are faculty who are not offered the opportunity for benefits for domestic partners placed at a disadvantage when it comes to hiring, promotion, and tenure? We believe yes, for the financial realities may be such that qualified faculty may need to turn down a job, leave a job, or not be able to effectively perform their job because of the added financial and personal stress caused by a lack of benefits for partners and added burdens caused by lack of access to equal rights in benefits. This impacts not only faculty, but the morale of a department and university as a whole.

According to The Association for Theatre in Higher Education's Bylaws, one of ATHE's primary purposes as a professional organization is

to foster and encourage the development of, and commitment to, the highest standards by university and college theatres and postsecondary professional training programs throughout the United States of America, including standards of excellence for teaching, production, research and creative work, management, and service.

As an organization, ATHE understands the need to support excellence in teaching. We also understand that excellence in teaching is the result of many factors. Benefit policies that exclude faculty from equal benefits because of their sexual orientation or marital status potentially marginalize and disenfranchise these faculty members and potentially inhibit the fostering of highest professional standards.

ATHE believes that "An education in theatre and performance studies gives students useful tools to contribute to and create positive changes in the public as well as the private sphere. Theatre in higher education creates not only strong theatre artists and articulate theatre educators, but also effective public leaders and compassionate visionaries in all professions."⁸ To be effective public leaders and compassionate visionaries, we must strive to achieve rights and equal benefits for all of the teachers in our profession. Dr. Augusto Boal, theatre artist, teacher, and activist, writes "To teach and to learn theatre, is to learn and to teach humanity," as quoted in ATHE's *Learning For a Lifetime*.

⁷ ATHE Operations Manual, 2004, 143.

⁸ *Theatre Studies in Higher Education: Learning For A Lifetime* (ATHE, 1996, reproduced in the Operations Manual 2004).

Diversity and Domestic Partner Benefits

ATHE is an organization committed to diversity. In our Operations Manual, we state our commitment to fostering diversity: “ATHE is committed to fostering and sustaining age, racial, ethnic, gender, sexual orientation, economic, and ability/disability diversities, among others, in its membership, in its governance, and in its programming” (165). Our Diversity Statement reads that ATHE

aims to be responsive to the wider range of peoples and perspectives operating within current academic and professional theatrical communities. Accordingly, ATHE understands that a significant objective within its operational mission is to ensure and encourage understanding, communication, artistic and scholarly discourse across and through differences (16).

Institutions of higher learning should accept nothing less than a zero tolerance policy for discriminatory policies created by ignorance, fear, or bias. This includes the treatment of its employees. Despite the presence of homophobia in our culture, which might lead to the lack of inclusion of LGBT persons in anti-discrimination laws or in benefit packages, the times demand change and paving the way for a future.

In the fall of 2000, the Kaiser Family Foundation conducted two national public opinion surveys: “one, to gather information on the experiences of self-identified lesbians, gays and bisexuals; and a second to gauge the general public’s attitudes toward this group and their views on key policy issues related to sexual orientation.”⁹ The Foundation reports that it did so to “shed light on where the public really stands on what has been a contentious issue in the United States, and the potential implications for social and health policy. The Foundation also wanted to better understand the role that stigma and discrimination play in access to health care and health outcomes.” This study was published under the title *Inside-OUT: A Report on the Experiences of Lesbians, Gays and Bisexuals in America and the Public’s Views on Issues and Policies Related to Sexual Orientation*. To quote from this source,

Majorities of the public believe that various laws should be passed to protect lesbians, gays and bisexuals from discrimination in a number of areas. *The broadest support is for antidiscrimination legislation in the areas of employment and housing, and for inheritance rights and employee benefits, including health insurance, for domestic partners* (italics added).¹⁰

Inside-OUT further states that

⁹ *Inside-OUT: A Report on the Experiences of Lesbians, Gays and Bisexuals in America and the Public’s Views on Issues and Policies Related to Sexual Orientation*. The Kaiser Family Foundation. Source: <<http://www2.hawaii.edu/~lgbti/Experiences%20of%20Lesbians,%20Gays%20and%20Bisexuals%20and%20Views%20Sexual%20Orientation.pdf>>. Site visited 1 October 2005.

¹⁰ Ibid.

a substantial majority of the general public supports laws to protect gays and lesbians from prejudice and discrimination in employment (76%) [...] 70% of the general public feels that employer provided health insurance should be provided to gay and lesbian partners.

With 70% of the general public supporting partner benefits for gays and lesbians, ATHE asserts that it is critical that universities and colleges do no less than aim for 100% support of partner benefits for gays and lesbians and all persons. As institutions of higher learning, it is our responsibility to be vigilant about anti-discrimination.

HRC writes that a first goal is to “ensure that the organization's non-discrimination policy includes sexual orientation. The next goal could be adding sexual orientation issues to the organization's diversity education programs. Another important goal is achieving full domestic partner benefits.”¹¹

It is crucial that university theatre and performance departments advocate at the university level for non-discrimination policies that include sexual orientation as a protected category both in cases where sexual orientation is a protected category according to state and/or municipal law and in such cases where sexual orientation does not qualify as a protected category according to state or municipal law. The banning of gay and lesbian marriage in a state does not preclude a university from adopting domestic partner benefits on campus, and these two matters need to be kept distinct from one another, as the American Civil Liberties Union is currently arguing.¹² We urge universities to adopt a policy of non-discrimination, as the absence of such a policy can lead to biased and discriminatory practices against LGBT persons, including lack of equal access to benefits for faculty and staff. According to the HRC, as of 2004, 551 Colleges and Universities, ranging from two year to graduate institutions, across the United States have non-discrimination policies that include sexual orientation as a protected category. As ATHE members, officers, and leaders, we are committed to advocating for equal rights for all.

¹¹ Source <http://www.hrc.org>. No federal law prohibits employment discrimination based on sexual orientation. Depending on where you live, your state or local government may prohibit sexual orientation employment discrimination. Sixteen states have laws that ban discrimination based on sexual orientation. Twenty-five have non-discrimination policies that include sexual orientation. Further, eleven states offer domestic partner benefits (California; Connecticut; Illinois; Iowa; New Jersey; New Mexico; New York; Oregon; Rhode Island; Vermont; Washington).

¹² Jay Kaplan, staff attorney for the ACLU of Michigan who is heading the fight to maintain domestic partner benefits in that state, asserts “You can’t say that providing health benefits is creating a marriage. It’s up to employers, public and private, to decide if they want to offer those benefits to attract and retain quality employees.” Quoted in Amy Lee, “Health Benefits Hinge on Lawsuits.” *The Detroit News*, 22 November 2005, online at <<http://www.hrc.org>>. Site visited 10 December 2005. As noted by Peter Schmidt in his article “Ohio Lawmaker Sues Universities to End Benefits for Domestic Partners,” “The Michigan Court of Appeals is considering a lawsuit filed against the state by the American Civil Liberties Union and joined by several gay and lesbian professors. The suit argues that an anti-gay-marriage amendment passed there in November 2004 should not be used to deny health benefits to the partners of gay employees at state agencies, including public colleges.”

We ask university chairs, deans, and presidents to take action and support the necessary measures that ensure non-discrimination for LGBT and for all persons. Failure to offer domestic partnership benefits puts universities at a serious competitive disadvantage in hiring and retention. Moreover, it sends the wrong message about our values as a community by unjustly denying family support to selected members of the University community. "Injustice anywhere is a threat to justice everywhere," Dr. Martin Luther King, Jr. famously proclaimed.

Conclusion

ATHE urges its membership and university chairs, deans, and presidents to advocate for domestic partner benefits for same and opposite sex partners. We urge you to take action and fight for equal rights for all faculty, LGBT and heterosexual, by supporting non-discriminatory benefit policies that protect employees across identities. LGBT persons should not be discriminated against because of their orientation and family compositions. The estimated cost to the university in adopting partner benefits is minimal, estimated at 1-2% on average, but the gain to the university maximal in the areas of employee satisfaction and productivity, morale, and retention.

Appendix: Sample Domestic Partners Benefit Statements

1. American Association of University Professors

American Association of University Professors

STATEMENT OF DOMESTIC PARTNERSHIP

I. DECLARATION

We, _____ and _____, certify that we are domestic

(employee)

(domestic partner)

partners in accordance with the following criteria and eligible for an annual contribution from the American Association of University Professors to defray the costs of the domestic partner's own purchase of health insurance:

II. STATUS

- 1 . Neither of us is married or related to the other by blood or marriage.
2. We are each other's sole domestic partner.
3. We live together in the same residence and intend to do so indefinitely.

-
3. We are at least eighteen (18) years old and mentally competent to consent to contract.
 4. We are not related by blood to a degree of closeness which would prohibit legal marriage in the state in which we legally reside.
 5. We reside together in the same residence, have done so for at least the last six (6) months and intend to do so indefinitely. If requested we can provide **one** of the following as documentation - please circle one :
 - a. Driver's license
 - b. Voters registration
 - c. Passport
 - d. Joint mortgage or lease
 6. We are jointly responsible for each other's common welfare and share financial obligations. Joint responsibility for each other's common welfare and shared financial obligations may be demonstrated by the existence of **three** (3) of the following. We have circled below the types of document we can provide if requested - please circle three :
 - a. Formal Domestic Partnership Agreement
 - b. Joint mortgage or lease
 - c. Designation of domestic partner as beneficiary for life insurance and retirement contract
 - d. Designation of domestic partner as primary beneficiary in employee's will
 - e. Durable property and health care powers of attorney
 - f. Joint ownership of motor vehicle, joint checking account, or joint credit account
 7. We understand that as domestic partners we are subject to the same window period governing all other employees who are covered by or applying for benefit plan coverage. For employees, any "Family Status Change" event's are all subject to a thirty (30) day limit on the enrollment period beginning on the date of the event.

III. CHANGE IN DOMESTIC PARTNERSHIP

8. We agree to notify the Yale University Benefits Office if there is any change in our status as domestic partners as certified in this statement which would make the domestic partner no longer eligible for University benefits (for example, a change in joint-residence or if we are no longer each other's sole domestic partner.) We will notify the University within thirty (30) days of such change by filing a Statement of Termination of Domestic partnership ("Statement of Termination"). The Statement of Termination shall affirm that the domestic partnership status is terminated as of its date of execution and that a copy of the Statement of Termination has been mailed to the other party by the party authorizing such action.

9. After such termination, I _____, understand that a subsequent Statement of Domestic Partnership cannot be filed until twelve (12) months after a Statement of Termination has been filed with the University Benefits Office.

IV. ACKNOWLEDGEMENTS

10. I understand that if my Domestic Partner and his/her children are not my dependents, the payments for coverage will be treated as follows:

Contribution for health insurance for the Domestic Partner and his/her children will be made on an after tax basis. The University's contribution for the coverage for the Domestic Partner and his/her children will be considered taxable income to me, and the University will withhold state and federal taxes on it.

11. We also understand that any false or misleading statements made in order to receive benefits for which we do not qualify may be grounds for cancellation of coverage and/or disciplinary action.

12. We have provided the information in this statement for use by the University's Benefits Office for the sole purpose of determining our eligibility for domestic partnership benefits.

Employee Signature

Employee Social Security or Yale ID #No

Date .

Domestic Partner Signature

Domestic Partner Date of Birth

Date

**Return completed form and any attachments to:
Yale University Benefits Office, P.O. Box 208256, New Haven, CT 06520-8256**

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For Yale University Benefits Office

APPROVED: Name: \_\_\_\_\_  
(Yale Benefit Counselor)

Date: \_\_\_\_\_

