



**Wright State  
University**

Office of the Dean  
College of Science and Mathematics  
Dayton, Ohio 45435  
513/873-2611

DATE: March 9, 1994  
TO: President Harley Flack  
FROM: Joyce Corban, Chair, Professional Staff Advisory Council  
SUBJECT: Issues Affecting Unclassified Staff

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As an entrée to our monthly meetings, I plan to prepare written comments about issues affecting Unclassified Staff. I hope this will make our time together more efficient.

#### **University Governance:**

Members of the Unclassified Staff are pleased to be engaged in the current efforts to examine and modify the governance structure of the University. Some of our specific concerns follow:

- We hope to achieve equal representation on those committees which consider issues affecting all members of the Wright State community (UBRC, Buildings and Grounds, Health Benefits Task Force, and others). Every Wright State employee is engaged in the business of educating students. Indeed, most of students' out-of-class experiences involve encounters with staff (academic advising, registration, fee payment, financial aid, food services, admission, library services, bookstore services, and others). Because we interact extensively with students, we hope we can also have a voice (and make a contribution) when issues which relate to curriculum and student affairs are considered.
- If a University Council replaces the current Academic Council, we need clarification of the decision-making authority of that body. If University Council votes on issues affecting Unclassified Staff, we need equal representation. If votes are cast in committees that report to University Council, Unclassified Staff representation on the Council can be smaller.
- To appoint 27 Faculty Senators to the University Council (the current faculty-proposal) seems counterproductive. Surely faculty can have a strong voice in the Council without having ten times as many representatives as any other constituency.
- We hope to see the President's Advisory Council, or some derivation of it, continue during your administration. PAC meetings provide a valuable forum for exchanging ideas and getting information directly to you.
- Our most urgent goal is to help design a governance structure that includes and involves all members of the Wright State family. All of us must stop guarding our turfs and begin to see ourselves as collaborators, working toward the common goal of educating students and serving the Dayton community.

#### **Performance Appraisal:**

I learned from a colleague that the employees of one entire Vice-Presidential area were told that there would be no "Outstanding" ratings in their unit. The justification given was that their unit would "set a good example" for the rest of the University. I fail to understand how telling your employees they cannot achieve the highest performance rating sets a good example. In a budgetary climate in which monetary rewards are small to nil, most of us look forward to our

evaluation as a time when we can receive recognition for our efforts, and constructive comments about how to improve our future performance. To be told categorically that no one is outstanding has a devastating impact on morale and negates all incentives to pursue creative methods for achieving new goals.

#### **Early Retirement:**

I learned from a faculty colleague that some members of Wright State's Board of Trustees believe that future early-retirement programs (if any more are offered) should not include staff. Should this issue surface again, I hope you will consider more than the financial nature of an early-retirement buy-out. Clearly, more money is gained when a retiring Professor is replaced by a young Assistant Professor, than when a departing staff employee is replaced. When I left the Biology Department after 13 years (to change jobs), the woman who replaced me started her job with a salary only about \$1000 less than my salary at the time. Conversely, when a Professor friend retired from the Biology Department, the woman who succeeded him started with a salary some \$25,000 lower than his. Despite the compelling nature of these numbers, I urge you to consider other aspects of this issue. Is fairness served if long-term, loyal employees are denied a benefit because of their job classification? Except for a few administrators, staff salaries (which cannot exceed prescribed ranges) are vastly lower than faculty salaries--hence the buy-out is cheaper, on average, for retiring staff-employees. Renewal of staff vitality through early-retirement incentives is just as valid as faculty revitalization through the same mechanism.

#### **Weather-Related Closings:**

I'm sure you are aware of concerns many Wright State employees have about the guidelines used to determine if Wright State will remain open during extreme weather. Members of the Unclassified Staff wish to express our hopes that more reasonable guidelines for closing the University will be used, should the kind of severe weather conditions we had in January and February develop in the future.

Every office on campus relies on classified and unclassified staff for providing services. While faculty may elect to stay home if classes are canceled, or even to cancel their class, staff are expected to report and keep campus offices open and in operation. For example, on the evening of January 18, 1994, local law enforcement agencies advised EVERYONE to stay off the roads except for emergency travel. Many major roads and highways were closed. The University Library was open that night until 11 pm. Public Safety officers lock the outer doors of the Library at closing; however, officers were very busy that evening helping people with their cars. As a result, Library staff had to wait until after midnight before they could start for home. It seems unnecessary to put staff members in a clearly unsafe situation to keep the University open during a time when the campus has no student, staff, or faculty activity.

Wright State University should be open and operational unless weather conditions are unusually severe. However, if conditions on the roads and on campus are sufficiently dangerous to warrant canceling classes, and if other large operations such as Wright-Patterson Air Force Base close or delay, we hope you will consider morning delays, early closings, and complete closings as viable options in the future. No function of this institution is important enough to

**Capital Budget:**

Historically, all units on campus could request funds from the Capital Equipment Fund. During the past few years, certain units have been excluded from applying for these funds. These units (Library, Electronics Shop, Instrument Shop, Admissions, Registrar's Office, and others) have no reasonable mechanism for requesting capital funds, and ever shrinking operating budgets cannot make up the loss. Academic programs continue to have access to capital funds (as well they should). Non-academic programs which cannot apply are administered primarily by Unclassified Staff members. Would you consider allowing all campus operations to request capital funds in the future? In many areas, replacing antiquated equipment and acquiring state-of-the-art equipment is nearly impossible. If these groups could apply for capital funds, they would at least have a chance.

**Fitness Center:**

Many Unclassified Staff employees were surprised by the relatively high cost for membership in the new Fitness Center. While the facility was being planned, we were told the fee for faculty and staff would be "nominal." I have joined the facility myself and find it meets my needs nicely. However, some employees will never enjoy the benefits of this terrific facility because they believe the cost is unreasonable. As the cost of running the Fitness Center stabilizes over the next few months, perhaps we could examine the possibility of reducing the cost to employees, without losing any quality of the program.

I'm sorry this is such a long list--I've been saving up. For our subsequent meetings, I'll surely have fewer issues to discuss! I look forward to seeing you on Friday.



**c: PSAC Members:**

Kathy Barbour  
Lois Boehm  
Phyllis Cole  
Ken Davenport  
Kim Grant  
Mike Schulze  
Bob Smith  
Pamela Wallace-Johnson  
Chris Watson  
Kevin Watson



**Wright State  
University**

Office of the Dean  
College of Science and Mathematics  
Dayton, Ohio 45435  
513/873-2611

DATE: March 9, 1994

TO: PSAC Members

FROM: Joyce Corban

SUBJECT: Health Benefits Task Force

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Pat Walker has asked PSAC to make a formal recommendation about the attached policy regarding domestic-partner benefits. She suggested we review the entire document before making a decision. Please read the attached information and, if time allows, discuss it with your constituents. Be prepared to vote at Monday's meeting.

And remember.....Dr. Flack will attend Monday's meeting. Think about any questions you may want to ask and encourage your unclassified-staff colleagues to attend. Attendance at faculty forums has been poor. Let's show Dr. Flack that our employee group has a keen interest in his leadership and the future of Wright State.



Wright State  
University

Office of the University Faculty  
Dayton, Ohio 45435  
513/873-2039

RECEIVED

DEC 09 1993

DEPARTMENT OF HUMAN RESOURCES

DATE: December 8, 1993

TO: Paige E. Mulhollan, President, Wright State University

FROM: *Edgar A. Rutter*  
Edgar A. Rutter, Chair,  
University Budget Review Committee

SUBJECT: Benefits for Qualified Domestic Partners

The University Budget Review Committee voted overwhelmingly at our last meeting to recommend that Wright State adopt a policy of seeking to extend employee benefits to qualified domestic partners of eligible employees. The Committee agreed upon a definition of qualified domestic partners which includes guidelines for ensuring that a bonafide relationship exists; it also provides for written notification to the University upon termination of the relationship contract. The eligibility of qualified domestic partners and the dependent children of partners for a particular employee benefit would be determined on the same basis as the eligibility of spouses and the dependent children of spouses.

I am forwarding with this memorandum a copy of the motion passed by Budget Review and a copy of a report prepared by a Subcommittee on Domestic Partners. The Subcommittee's report contains a thorough analysis of the issues surrounding the extension of benefits to domestic partners including an estimate of the potential costs. While there is strong support within UBRC for the principle that qualified domestic should be eligible for employee benefits, not all members supporting this principle necessarily endorse all aspects of the Subcommittee's report. Nevertheless it is a valuable resource that should inform consideration and implementation of the Committee's recommendation that the University extended employee benefits to qualified domestic partners.

I want to emphasize that Budget Review took this action only after extensive consideration and wide consultation. It is clearly feasible to extend benefits to qualified domestic partners at a modest cost. Moreover, there is broad support within the Wright State community for doing so. This is an issue that unites faculty, staff, and students. The University has rightly been recognized for being in the vanguard of efforts to provide access

Benefits for Qualified  
Domestic Partners, P.2

to persons with disabilities. University policy bans discrimination on the basis of sexual preference. Should Wright State not again be a leader in tolerance and inclusion by extending benefits to qualified domestic partners?

Attachments (2)

cc: Ms. Carter  
Dr. Flack  
Dr. MacDonald  
Dr. Putnam  
Dr. Sayer

## Benefits for Qualified Domestic Partners

UBRC recommends that Wright State University adopt a policy to seek to extend university employee benefits to qualified domestic partners\*.

\*Qualified domestic partners should be defined as two individuals who share the common necessities of life, are not married to anyone, are at least eighteen (18) years of age, are not related by blood closer than would bar marriage in the state of Ohio, are mentally competent to consent to a contract, are each other's sole domestic partner and intend to remain so indefinitely, are responsible for their common welfare, are unable to qualify for coverage as a common-law spouse, are unable to marry in the state of Ohio because they are of the same sex, and **meet the following condition (1) and at least two of the next three conditions (2-4) showing financial/social interdependence:**

- 1) A "relationship contract" has been executed for the partners which requires significant mutual responsibilities and obligations, which obligates each to provide support for the other party, and which provides, in the event of the termination of the relationship, for a substantially equal division for any property acquired during the relationship;
- 2) the relationship has been in existence for at least twelve (12) consecutive months;
- 3) the partners have at least two examples of
  - a) common or joint ownership of a residence (home, condominium/apartment, or mobile home),
  - b) joint ownership of a motor vehicle,
  - c) a joint checking account,
  - d) a joint credit account, or
  - e) a lease for a residence identifying both partners as tenants;
- 4) the domestic partner has been designated as a beneficiary for
  - a) the Wright State provided life insurance policy,
  - b) a STRS/PERS/other retirement contract, or
  - c) the employee's will.

Upon termination of the contract, the employee must notify the university in writing. As well, there should be a twelve-month period after any domestic partnership is terminated before a subsequent partnership may be registered.

(Adapted from "The University of Iowa Affidavit of Domestic Partnership")

Adopted by UBRC  
November 30, 1993  
11 YES, 3 NO

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REPORT AND RECOMMENDATIONS  
of the  
Subcommittee on Domestic Partners

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Wright State University  
Dayton, Ohio

Prepared for  
the University Budget Review Committee

October, 1993

Subcommittee Members

Marguerite MacDonald, Committee Chair and Faculty President,  
Department of English

Tracy Consani, Student

Charles Derry, Professor, Department of Theatre Arts

Emmett Orr, Assistant Dean, School of Professional Psychology

Robert Putnam, Associate Professor, Department of Physiology &  
Biophysics

Juanita Wehrle-Einhorn, Director of Affirmative Action Programs

## SUMMARY

of the "REPORT AND RECOMMENDATIONS OF THE SUBCOMMITTEE ON DOMESTIC PARTNERS" prepared for the University Budget Review Committee, 10/93

The Committee has been meeting since March of 1993 to discuss the panoply of fringe benefits as they relate to domestic partners, including sick leave, bereavement, tuition remission, health insurance, and dental benefits. The Committee notes that current policies connect many fringe benefits to marriage, and by doing so, withholds these benefits from the University's gay and lesbian employees who cannot marry their partners under state law.

Further, the committee finds the administration of benefits discriminatory and in conflict with at least three specific policies: 1) Wright State's own non-discrimination policy, "Equal Opportunity in Employment," found in The Wright Way, policy 4001-2-a-1, 2) the Governor's Executive Order 83-64, and 3) the Diversity Statement for the University, unanimously passed by the Board of Trustees of Wright State on March 28, 1991--all documents which prohibit discrimination on the basis of sexual orientation.

In keeping with the movement on college campuses across the country, the Committee makes the strong argument that the University should extend these benefits to employees with domestic partners who are unable to marry, thus amending the present benefit policies which clearly have a disparate impact upon the University's gay and lesbian employees.

The trend toward fairness in benefits is moving very fast. Benefit policies for qualified domestic partners and children of domestic partners now exist at the University of Iowa, the University of Chicago, Stanford, the University of Vermont, Middlebury College, Harvard, M.I.T., Clark University, the University of Minnesota, Northeastern University, Dartmouth, Columbia University, among others. As well, numerous businesses and municipalities have pioneered in domestic partner benefits.

The Committee recognizes there are a variety of perceived problems associated with domestic partnership benefits, including the fear of higher cost, the fear of fraud, the fear of federal tax implications, and the perceived inability to find an insurance carrier. In the full report, each of these fears is examined in detail and shown basically to be unwarranted, not born out by the reality of domestic partnership programs. Finally, the Committee notes the possibility of litigation and the recent ruling in Vermont that ordered the University of Vermont to provide these benefits.

The Committee proposes a comprehensive "Domestic Partner Benefits Program," which allows employees to register their "qualified domestic partner" using the strict definition of the "qualified

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The Domestic Partners Subcommittee of the UBRC has been meeting regularly since March of 1993, discussing and researching the whole panoply of fringe benefits as they relate to domestic partners. The major issues of equity include sick leave, bereavement, tuition remission, and health and dental insurance. The Committee notes that the area of domestic partner benefits is developing so rapidly that it is difficult to keep up with the new policies being put in place all over the country. After a thorough investigation, we nevertheless discern trends and principles which should guide Wright State's policy. We thereby issue the following report and recommendations:

#### 1. STATEMENT OF PRINCIPLES

Gay and lesbian faculty and staff are routinely discriminated against at Wright State. Basing fringe benefits on marriage is not in itself mandated by law, and a benefit that recognizes marriage as the only vehicle for extending benefits is discriminatory, because gay and lesbian employees cannot legally marry their partners. Certainly it is reasonable to promote long-term relationships in a fringe benefits policy, for studies indicate that individuals in these relationships tend to live longer and be healthier, and thus are more productive employees. However, denial of benefits to gay and lesbian employees with long-term marriage-equivalent partnerships simply on the basis that they are not legally married creates resentment on the basis that these employees are not receiving equal pay for equal work.

The 1990 census reported that only 27% of our households now contain two parents with children, and we all recognize that families in America are changing. As well, there is an increasing awareness that diversity in American households has led Americans to think about family in new ways. In a survey by the Massachusetts Mutual Life Insurance Company, for instance, virtually three-fourths of respondents, given a variety of choices, defined a family as "a group of people who love and care for each other" rather than as people "related by blood, marriage or adoption." When institutions grant benefits to employees who are married and deny them to employees who are in committed, long-term relationships who are not able to marry, they give some employees more help than others in providing for their families.

As well, denial of benefits violates a variety of specific policies, including:

1. Wright State's own non-discrimination policy, as found on page 2 of "The Wright Way: Policies and Procedures," Policy #4001-2-a-1, "Equal Opportunity in Employment," and disseminated widely throughout the University, which states that "Wright State University provides equal employment opportunity. In its employment policies and practices, the university prohibits discrimination against any person or group on the basis of race, sex, color, religion, ancestry, national origin, age, disability, veteran status, or sexual orientation. [emphasis added] Each contractor which deals with the university will be expected to establish and comply with the same prohibition." (See

2. The Governor's Executive Order 83-64, issued on December 30, 1983, which states that "agencies, departments, boards and commissions within the Executive Branch of State government and under the jurisdiction of the Governor shall not discriminate in State employment against any individual based on the individual's sexual orientation." As well, this order's "Statement of Purpose" includes the goal that "discrimination on the basis of sexual orientation [emphasis added] is treated with the same energy and dedication that is used to abolish any other form of discrimination." (See APPENDIX #2.)

3. Resolution 91-31, March 28, 1991, the Diversity Statement for the University, passed unanimously by the Board of Trustees of Wright State University, which includes the following:

"WHEREAS, Wright State University promotes the acceptance and appreciation of every individual regardless of race, gender, age, ethnicity, ability or disability, sexual orientation [emphasis added], socio-economic status, religious affiliation, or national origin. We encourage appropriate activities and events which foster learning about the diversity of our world: therefore be it

RESOLVED that Wright State University will be a model for our geographic region [emphasis added], exemplifying that a human community can exist which celebrates diversity, enjoys the richness which diversity brings to our lives, and grows stronger with every new member." (See APPENDIX #3.)

By being in violation of its own policies, the University opens itself up to potential legal problems. Fringe benefits, particularly health insurance but also including tuition remission, can be a significant component of total compensation. To disallow gay and lesbian employees coverage for their domestic partners treats these employees in an unequal manner and is inconsistent with the University's stated policies.

This argument does not necessarily extend to heterosexual domestic partners, because they have the option to marry under Ohio state law. After much deliberation and in keeping with the movement on college campuses across the country, this committee has decided to recommend that the new benefits policy be limited to qualified domestic partners unable to marry.

Providing equal benefits for gay and lesbian employees can improve morale and productivity and affirm that the University values these employees as full, important members of its community. Further, as more and more universities adopt benefit programs for domestic partners, reluctance to do so may limit the University's access to qualified candidates. By such reluctance, the University adversely positions itself in its competition for the best scholars, teachers, and students--whatever their orientation, gender, race, religion, or ethnic background.

Ultimately, the issue is one of fairness, and the Committee calls for the University to amend its fringe benefits consonant to its non-discrimination policies.

## 2. HIGHLIGHTS OF OTHER INSTITUTIONS

The trend toward fairness in the distribution of fringe benefits to qualified domestic partners unable to marry is moving very fast. Indeed, within the ten days between drafts of this document, this section had to be significantly rewritten to include new policies. A variety of universities have enacted comprehensive proposals, including but not limited to the ones listed below. Virtually all the university policies include "non-cost" items such as bereavement leave or use of facilities; although we have not included in our tabulation the numerous institutions which have only these "non-cost" items and are in process with other benefits. Unless stated otherwise, the benefits programs for the educational institutions below define qualified domestic partners as partners who do not have a blood relation closer than would bar marriage, but who are unable to marry (that is, are of the same sex) and who meet a variety of other financial/social criteria defined by the respective institution.

The University of Iowa has begun offering health insurance coverage to qualified domestic partners and the children of domestic partners effective January of 1993. Health insurance is through the University of Iowa Comprehensive Health Insurance Plan. Domestic partner benefits will be considered taxable income to the employee (unless assignees are also IRS-defined dependents). Copies of the University of Iowa policy are available with this report. (See APPENDIX #4.)

The University of Chicago now offers health insurance to qualified domestic partners and the children of domestic partners effective February of 1993. As the University of Chicago also has a tuition remission policy, this policy is extended to domestic partners and the dependent children of domestic partners as well. Insurance coverers include the Comprehensive and Maroon Plans, the University of Chicago Health Plan, the Humana-Michael Reese Health Plan, and the First Commonwealth Dental Plan. Benefits for domestic partners are taxable income to the employee (unless assignees are also IRS-defined dependents). Copies of the University of Chicago policy are available with this report. (See APPENDIX #5.)

Stanford University has a stated policy that "all the benefits offered to the spouses of employees and retirees will also be offered to the same-sex Domestic Partners of employees and retirees, and the children of same-sex Domestic Partners will also receive the same coverage opportunities as the children of spouses of employees and retirees." These benefits, which began in February of 1993, include health insurance as well as a Tuition Grant Program, among others. Stanford offers three HMO plans.

The University of Vermont has extended, as of August 1, spousal health insurance benefits to qualified domestic partners and dependent children of domestic partners to comply with a 1993 ruling by the state labor relations board that to not do so violated the University's own non-discrimination statement.

Middlebury College of Vermont, as of September of this year, has extended equal benefits to domestic partners and dependent children of domestic partners. (Their registration form does not require same-sex status.)

Harvard has announced it is extending equal benefits to qualified domestic partners, including health insurance benefits to partners and dependent children effective November of this year. They have already begun their employee registration process.

M.I.T. (Massachusetts Institute of Technology) has extended equal benefits to qualified domestic partners, effective June of this year, including health and dental for qualified domestic partners and dependent children.

Clark University, effective June 1, 1993, has extended equal benefits to qualified domestic partners and dependent children. Benefits include tuition remission, and a health/dental plan.

The University of Minnesota Board of Regents announced on September 10, 1993, that equal benefits are now being extended in every current benefit area for same-sex domestic partners and dependent children of partners, which will include medical and dental benefits. Until negotiations with the state of Minnesota health care plan are completed, the University will reimburse the cost of domestic partner health benefits to the employee.

Northeastern University (of Boston) has announced extension of health insurance benefits for qualified domestic partners and children of domestic partners effective January of 1994. The plan will include the same options as for married couples: the University's self-insured plan and several HMO's.

Dartmouth College has announced that health insurance for qualified domestic partners and dependent children will be in effect this November. They have already begun their employee registration process.

Columbia University announced on October 6, 1993, that medical benefits are being extended to qualified domestic partners and dependent children. Contracts will include the University's self-insured system as well as all their HMO's.

Other schools with domestic partnership policies with a variety of different details include Pitzer College (health insurance reimbursement for domestic partners of either sex and children), Occidental College (tuition remission), Swarthmore College (tuition grant stipend), University of Pittsburgh (tuition remission for qualified domestic partners and children), Colby College (tuition remission for

domestic partners of either sex and dependents, and health insurance for domestic partners of the same sex), and over a dozen institutions in Canada. Literally scores of other schools are about to release details of their new policies (such as American University, for one) or are in process with changes, as approved reports of faculty or administrative committees await implementation. In Ohio, a subcommittee of the Faculty Welfare Committee of Miami University has recommended sweeping changes in the domestic partner policies (either sex) in their exhaustive "Report of the Domestic Partner Benefits Task Force" (November 1992); and Ohio State has begun steps to implement its own internal "Report of The Spousal Equivalency Task Force."

What might strike some as surprising is that the business sphere has by and large taken the lead in domestic partnership benefits. Those pioneers include Lotus Computer (same-sex only), Apple Computer (same-sex), Ben and Jerry's Ice Cream (either sex--using United Insurance of Washington, D.C.), The Levi Strauss Company, The Village Voice, Gardeners Supply Company of Burlington, Borland International, The New York Times, Viacom International, and HBO.

Other organizations which include health insurance (among other benefits) for domestic partners include the Montefiore Medical Center of New York, the American Civil Liberties Union, Minnesota Public Radio, and American Friends Service Committee. Cities which have health insurance for domestic partners include Berkeley (since 1987), West Hollywood (from 1989), Seattle, Santa Cruz, and Laguna Beach (since 1990), San Francisco (since 1991), and Toronto.

### 3. SOME RESPONSES TO PERCEIVED PROBLEMS

There are a variety of fears associated with changing these policies. Virtually every study of domestic partner benefits or of the internal records of organizations which have instituted these benefits shows these fears to be largely unfounded. The following responses to the various objections are not intended to be exhaustive, and additional supporting data are available for each specific point.

We have chosen to answer these fears by quoting at length several key articles which have responded to them cogently and clearly. The most important of these articles are "Domestic Partnership Recognition in the Workplace: Equitable Employee Benefits for Gay Couples (and Others)," Roger L. Eblin, Ohio State Law Journal, Volume 51: 1067-, 1990 (a 30-page legal article containing 175 footnotes); "Unmarried with Benefits," Jennifer J. Laabs, Personnel Journal, December, 1991; and City of Seattle/ First Year Report: Extension of Medical/Dental Benefits to Domestic Partners, July, 1991.

#### A. Fear of higher cost

That domestic partner provisions will entail some dollar cost is undeniable. Additional premiums will be required for health insurance benefits... An employer who does not offer domestic partner benefits is, in fact, paying less in total compensation than he should be because employees with domestic partners are not

being compensated equitably... Fears that domestic partner provisions will be proportionally more costly than spousal benefits have been largely unfounded. Santa Cruz and Berkeley, for example, have found that domestic partner costs were equivalent to adding a like number of spouses to their health plan. The Madison, Wisconsin Equal Opportunities Commission estimated that adding domestic partners [of either sex] to the city's health plans would add one to three percent to the total cost of the plans. Some employers and insurers have shied away from domestic partner benefits out of fear that gay employees will enroll significant numbers of partners with AIDS...however [...] gay employees using the benefits have not been singled out as costing more than non-gay employees. (Ohio State Law Journal, Eblin, p. 1082.)

Additionally, a recent report from the Hewitt Associates ("Domestic Partners and Employee Benefits," October 1991) on domestic partnership benefit programs already in place concludes that "the health of a non-working domestic partner is similar to that of a non-working spouse." And although typical costs for catastrophic heart and cancer are often greater than current AIDS costs, there has not been adverse selection nor catastrophic AIDS claims for existing domestic partnership programs. This is testified to again and again by those places (Lotus, among others) who have programs in place. The claims experience of the 350 domestic partners enrolled in the city of Seattle's plan (which includes either domestic partners of either sex) has been "better than for spouses to date, and much less than what was budgeted"--amounting to only 1.1% of the city's total medical claims. In fact, after three years of administering a health maintenance plan for domestic partners in Berkeley, the Kaiser Foundation Health Plan of Oakland actually lowered the premiums, noting, surprisingly, that the overall "adjusted community rating" had improved with the addition of the domestic partners (Business Insurance, March 11, 1991). And finally, the city of Seattle has noted that after one year of the program, the costs for domestic partners were less than had been expected, and that "the year of experience has demonstrated that this group of employees is no different than the general population of single or married employees." (City of Seattle/ First Year Report: Extension of Medical/Dental Benefits to Domestic Partners, July, 1991.)

#### B. Fear of Fraud

Accompanying and often underlying concerns over increased costs are fears that domestic partner provisions invite fraud. Critics of domestic partnership provisions argue that employees will exploit the benefit provisions by enrolling sick friends or relatives, especially those with AIDS, for whom insurance costs would otherwise be prohibitive. Where domestic partner provisions exist, however, no evidence of fraud has been demonstrated [emphasis added]. Furthermore, the potential for fraud exists in any employee benefit program. That potential, however, should not block the equitable extension of benefits to domestic partners. (Ohio State Law Journal, Eblin, pp. 1082-1083.)

The domestic partnership forms which are being used nationally to register domestic partnerships are rigorous, notarized affidavits. Furthermore, these forms contain safeguards which prevent their frivolous use and include clauses or phrases which in some ways make the domestic partnership a more stringent criterion than marriage. These requirements can include proof of financial interdependence, such as beneficiary status in wills, retirement contracts, and life insurance, as well as waiting periods before a new domestic partnership is recognized. More to the point, however, is that even today it requires

In response to a request from Seattle, however, the IRS has ruled that benefits extended to domestic partners are taxable income to the employee if the domestic partner does not meet the "dependent" test of section 152 of the Internal Revenue Code. The IRS concluded that "nonspouse cohabitants" (i.e., domestic partners who are not legal spouses) "who do not receive more than fifty percent of their support from the employee do not qualify as "dependents" under section 152. Benefits extended to nonqualifying domestic partners will be considered taxable fringe benefits to the employee. (Ohio State Law Journal, Eblin, pp. 1084-1085.)

Since this article was written, the IRS has revised its ruling as to how it determines the amount upon which taxes are due: whereas tax had been on the "fair market value" of the health insurance premium, taxes are now due only on the "group rate" of the health insurance to the domestic partner (the actual cost to the institution), thus somewhat lessening the inequity imposed by the tax itself. This ruling was made in December of 1990 and was the landmark which has helped open the floodgates to increased domestic partnership benefits. This ruling is verified by a March 11, 1991 article published in Business Insurance which addresses these issues, as well as by the carefully explained and researched guidelines of many institutions, such as the University of Chicago's. (See APPENDIX #5.) Thus, although some may fear otherwise, **there is no adverse legal/tax consequence for current benefits or for the University**, should benefits be extended to domestic partners, though the University will be involved in some additional record-keeping in dispensing those benefits.

#### D. Perceived Inability to Find an Insurance Carrier

Although some insurance coverers may say that they are not allowed to cover domestic partners, their response is more a function of their own past policy rather than any law or legal restraints. Consumers United Insurance of Washington D.C. (202-872-5390) has long offered health insurance benefits for domestic partners, as has Firemen's Insurance Company (202-842-5410). A variety of HMO's around the country, including Kaiser and Foundation Health Care offer health benefits. Other groups which are self-insured have their coverages underwritten by Blue Cross/Blue Shield. American Friends Service Committee has its domestic partnership medical policy covered by John Hancock, and its hospital coverage by Blue Cross of Pennsylvania. Beth Israel Medical Center's domestic partnership policy is administered by Travelers Insurance. And of course, the numerous institutions listed in Section 2 have found health carriers.

Donald White, a spokesperson for the Washington D.C.-based Health Insurance Association of America (HIAA) suggests that although domestic partner coverage isn't on the forefront of insurance issues [Committee note: that is, in December of 1991--things are rapidly changing now], ...it has been a recent topic of discussion. "Basically, what the [insurance] companies tell me is that, by and large, they aren't hearing from employers wanting to change their definitions..." The reason? "This may be because

the groups that are most likely to extend these benefits are apt to be the larger-sized groups that are self-insured and therefore can take that action on their own," he explains. If employers wanted to provide this coverage for employees, there's no reason why that coverage shouldn't be written, says White. Insurers may ask for data regarding potential claims so they could develop a reasonable premium. "At this point, insurance companies aren't very familiar with that type of coverage," says White. Indeed, there has been little experience in insuring this group of individuals. "The underwriters and actuaries go on the numbers. When they don't have numbers, they often times are at a bit of a loss," says White, although he points to Lotus' recent policy on this issue and says it will "undoubtedly be invaluable" to other companies seeking data... This is a market-driven system, and as fully insured companies decide they want to change their definitions...and approach insurance companies, insurers will respond to that market. (Personnel Journal, Laabs, p. 64.)

Since this 1991 article, there are now many precedents. In fact, the Committee notes with some irony that the health insurance offered this year to Wright State students itself allows students to purchase medical insurance for their domestic partners (of either sex) and the children of their domestic partners. The company involved is the Security Life Insurance Company of America, and its plan is administered by the Student Assurances Services. Thus, it becomes clear that circumstances regarding insurance carriers are changing very rapidly.

Actuarial data are supporting these changes. After three years of the domestic partnership program in Berkeley, Kaiser actually lowered the premium, admitting they were wrong in presuming the cost might be higher. Presenting this kind of data, which can be acquired, to local/state health insurance companies which may still be hesitant could be instrumental in their own education on this issue. A recent actuarial study of Martin Miller, a San Francisco-based health and welfare actuary, has shown that the cost of providing benefits is much lower than companies at first anticipated and suggests that this is one of the reasons so many companies are now adding coverage for domestic partners of its lesbian and gay employees. Stanford's "Report on Domestic Partners' Benefits" anticipates the University's \$24 million annual cost for health care to rise by less than .5%. Surcharges for coverage were also eliminated for the city of Seattle's coverage. And private employers that have had plans long enough to have much cost experience, all report no increase in health plan costs. Examples include Ben & Jerry's, Montefiore Hospital, and The Village Voice.

#### E. Litigation Concerning Discriminatory Practices

From the other side of the equation, litigation is a very real possibility for institutions not providing equal treatment of employees. Several important and appropriate test cases are on record.

At the University of Vermont, gay and lesbian employees filed a joint grievance that they were being discriminated against because they were not allowed access to medical and dental plans for their domestic partners, despite the University's own non-discrimination statements. When the Department of Labor ruled that the State Labor Relations Board of Vermont had the jurisdiction to decide the conflict, the Labor Relations Board held hearings and in a subsequent 16-page ruling (Docket No. 92-32, June 4th, 1993) concluded that the University was indeed discriminating on the basis of sexual orientation and ordered the University to implement a revised medical and dental plan which did not discriminate within 60 days. This ruling basically stated that because gays and lesbians cannot marry, the University's refusal to give benefits to their partners discriminates against them, even if it is not the University's conscious intention to discriminate, because the policy has as its result a disparate impact upon the gay and lesbian community. As the 93/94 school year progresses, this ruling is expected to have a specific impact on colleges and universities throughout Vermont, as well as a general impact beyond.

In Gay Teachers Association v Board of Education, several teachers and employees are suing the New York City Board of Education for health and dental benefits for their domestic partners on the grounds that 1) denial of benefits unlawfully discriminates on the basis of marital status, and that 2) denial of benefits has a disparate impact on gay and lesbian employees who are not allowed to marry their partners. (Ohio State Law Journal, Eblin, p. 1080.) After a delay, a July 1992 unanimous ruling of a five-judge panel of the New York State Appellate Division ruled that denial of health benefits may very well represent illegal discrimination and asserted the rights of the lesbian and gay employees to go to trial court.

Another key court case recognized that only 25% of American households now comprise a married couple with children. In Braschi v. Stahl Associates, a key renters' rights decision in which a New York landlord attempted to evict the domestic partner of a gay renter, the court ruled that "protection should not rest on...legal distinctions or genetic history...but in the reality of family life."

Just as litigation opposing discrimination is increasing across the country, so too is a variety of legislation promoting more expansive views of the family (such as California A.B. 1721, which prohibits discrimination in insurance underwriting based on sexual orientation). Certainly it behooves the University to confront the present contradictions in its own policies.

#### 4. PROPOSAL FOR WRIGHT STATE

The current situation in regard to domestic partnerships at Wright State is unclear and contradictory. In a March 16, 1992 memo to Vice President Edward Spanier, President Paige E. Mulhollan noted that "both state and university policy prohibit discrimination on the basis of sexual preference" and reported that he asked Joyce Carter "to arrange that all benefits other than medical/dental be extended to such

individuals." As well, the Health Benefits Task Force, in a May 20, 1992 memo from Edward Spanier to Paige E. Mulhollan recommended that a registration form be adopted (for a blanket domestic partnership registration), and that "the university should demonstrate compassion for employees involved in a domestic partnership and extend to them the use of sick and bereavement leave...", but that other issues needed continuing discussion. Human Resources presently has a registration form for domestic partners of either sex, although nothing has been codified or publicized. Therefore, this committee makes the following comprehensive recommendations for an official "Domestic Partner Benefits Program" to supersede the existing arrangement.

THE DOMESTIC PARTNER BENEFITS PROGRAM

1. The University must immediately declare its determination to enact an equitable benefits policy that does not discriminate against employees with qualified domestic partners.
2. Employees with qualified domestic partners should be able to register their partners and dependent children of partners with the Office of Human Resources for Employee Benefits. Qualified

5. The University should extend health insurance to qualified domestic partners and their dependent children immediately or with the next contract; but if until then, should reimburse the employee who purchases external coverage up to the amount the University would have contributed to cover spouse and/or children under its own medical plan.
6. The University should extend dental insurance to qualified domestic partners and their children immediately or with the next contract; but if until then, should reimburse the employee who purchases external dental coverage up to the amount the University would have contributed to cover spouse and/or children under its own dental plan.
7. The University should extend Educational Assistance Benefits (the Tuition Fee Remission policy) immediately to qualified domestic partners and their dependent children.
8. The Office of Human Resources should immediately promulgate documents to expedite these benefits, including at least a new "Statement of Domestic Partnership" document, patterned after the document from the University of Iowa (See APPENDIX #4), and a "Tax Certification of Dependency" statement and explicit guidelines explaining the benefits and the tax consequences, patterned after the documents from the University of Chicago (See APPENDIX #5). The University Budget Review Committee should be given the opportunity to review and approve the forms.
9. The Office of Human Resources and all other appropriate units within the University should immediately begin reviewing and revising all University publications, including Wright Way publications, so that "spouse" is replaced with "spouse or qualified domestic partner," "dependent children" with "dependent children or dependent children of qualified domestic partner", and so forth.
10. The office of the President and the Board of Trustees should request that STRS and PERS revise their policies to provide qualified domestic partners with survivors benefits upon the death of an employee.
11. Any additional benefits the University might accord employees in the future must meet the same non-discriminatory guidelines; and any other benefits not specifically listed here or spelled out, but which are characteristically offered to spouses (such as use of facilities) must also be made available to qualified domestic partners.

## 5. COST ESTIMATE

A-Sick Leave benefits for domestic partners will come at no virtual cost to the University.

B-Bereavement Leave benefits for domestic partners will come at no virtual cost to the University.

C-Health and Dental Insurance is, of course, much more complicated and requires following a complicated process of calculation. We estimate approximately 18 employees will register their domestic partners, approximately 10 employees will change their insurance status to include a domestic partner and/or children, and the cost per year to the University, based on 93/94 figures would be an additional \$22,013.

The 1992-93 UBRC collected information from the 1990 Census which projected the following: there are 8.4 million adults in the United States living in unmarried couple arrangements, amounting to 4.8% of the total 173.7 million adults. 4.8% of the 1,834 Wright State employees amounts to 88 potential domestic partners if the domestic partnership plan were to include same or either-sex couples.

To determine what percentage of these 88 might be same-sex couples, there are a variety of options. We can consider the generally accepted 10% statistic for gays and lesbians in the general population (.48% of WSU total) or the Hewitt Associates study that suggests closer to 1/3 of unmarried couple arrangements may be same-sex partners (1.6% of WSU total). In large urban cities with large gay populations which have general domestic partner registries, same-sex partners have applied in the following percentages of overall employees: in Berkeley, 1.12%; in Seattle, 1.25%; in San Francisco, 1.25%. Thus, while .48 % may seem too low, the 1.6% seems a very high estimate for Wright State, particularly since the Hewitt figures come predominantly from more heavily-populated urban areas. In fact, the University of Iowa study which predicated their own policy suggested 1% as a solid, mid-level prediction of the number who might register, a projection which seems reasonable to this committee as well. Thus, we would estimate 1% of the total number of WSU employees, or 18 employees, to register their domestic partners.

It must be noted, however, that the number of people who register their partnership (for bereavement and sick leave) is always much greater than the number who apply for health benefits. For instance, Hewitt Associates have shown that of the 50,000 offered health insurance benefits for same-sex or either-sex domestic partnerships in 1991, (potentially as high as 4.8%) only 1.5% altogether applied--of which no more than .5% were gay or lesbian. Even in San Francisco, less than .5% of the total number of employees signed up for health benefits. There are many potential explanations: In most same-sex domestic partnerships, both partners work, and each already has access to a health policy. Perhaps surprisingly, it is common for both members to be employed by the same institution and already be receiving benefits individually. A poll conducted by the Association for Gay, Lesbian, and Bisexual Faculty and Staff of Ohio State University suggested that 86% of the partners already had medical benefits from an employer and 28% of domestic partners were also employed by Ohio State; and only 26% of those eligible indicated they would apply for health insurance benefits through the University. Before installing their own health insurance coverage, Stanford estimated that "only about .3% to .7% of the company's employees are likely to elect the health coverage, since both members of same sex couples are typically employed and able

to obtain medical coverage through their own employers." In schools which have already instituted health benefits for gay domestic partners, the following percentages have applied for benefits: in Stanford, 23 out of 9760 (.20%); in University of Chicago, 8 out of 6060 (.10%); at M.I.T., 17 out of 9500 (.18%); at the University of Vermont, 7 out of 2900 (.24%). These figures are a bit low certainly, and this committee would not be surprised if these institutions find them increasing somewhat in the coming years as the policies become more widely known to their employees.

Thus, we estimate that approximately .5% (one-half of one percent) of the workforce (half of those registering their partners), or about 10 employees will request changes in medical or dental insurance.

The following chart shows the cost of medical and dental benefits at Wright State as of October of 1993.

COMBINED COST of HEALTH BENEFITS

CATEGORY	MEDICAL	DENTAL	TOTAL
1) 1 FTE	133.51	11.44	144.95 per month
2) 1 FTE + 1 dependent	267.02	29.68	296.70 per month
3) 1 FTE + family	350.81	39.28	390.09 per month
1) 1 FTE	1602.12	137.28	1739.40 per year
2) 1 FTE + 1 dependent	3204.24	356.16	3560.40 per year
3) 1 FTE + family	4209.72	471.36	4681.08 per year

If we presume that perhaps half of the 10 employees with qualified domestic partners would move from category 1) to 2) and the other half from category 1) to 3), then the projected increase in cost would be  $5 \times (3560.40 - 1739.40) + 5 \times (4681.08 - 1739.40)$  or a total of \$23,813.40. Depending upon the salary of the employee, increased sliding-scale employee contributions would then diminish the cost to the university by as little as \$1800 (if all employees made under \$25,000) or as much as \$3600 (if all employees made over \$50,000). Thus, we estimate the cost for health and dental benefits to be approximately \$22,013. This is only .38%, for instance, of the overall 1992/93 net cost of health and dental expenditures to the University, which came to \$5,729,600.

**D-Educational Assistance (Tuition Remission)**-The cost of extending tuition remission depends on whether or not one assumes these costs to be a real cost to the University or not. Although they represent real value, they come at no virtual cost.

Certainly, determining the cost of these benefits presents a conceptual problem. Wright State officially treats these waivers as a budget item, but they are not monies the University pays out. They are not even income foregone by the University unless the student would have enrolled in the University anyway and paid the fee if the benefit were not offered. As well, most students who use fee waivers generate income for the University in the form of state subsidy. And although

fee remission would be taxed for employees whose same-sex partners or dependents do not qualify for dependency status, the University is presently given the latitude to determine its own Fee Remission policies.

We can also think of the fee waivers as not representing money as much as an increase in the number of students Wright State teaches within the fixed budget established by its state subsidy and other income. Under the current policy and using Fall Quarter of 1992 as our example of record, Wright State granted fee waivers to 516 spouses and dependent children of married employees. For that quarter, the head count of all students was 17,657. If we increase the likely number of employees given fee waivers by the percentages likely to file same-sex domestic partner affidavits (1% of the total workforce), the number of additional students using fee waivers could be estimated at about 5 or 6. These additional students would have represented an increase of no more than .34 students per one thousand, a negligible effect on Wright State's student/faculty ratio.

**E-Survivor Benefits through STRS and PERS.** The University itself cannot categorically change the policies of STRS and PERS.

Respectfully submitted,

Marguerite MacDonald  
 Tracy Consani  
 Charles Derry  
 Emmett Orr  
 Robert Putnam  
 Juanita Wehrle-Einhorn

**APPENDICES:**

- 1) The Wright Way: Policies and Procedures, "Equal Opportunity in Employment," Policy #4001-2-a-1
- 2) The Governor's Executive Order 83-64, December 30, 1983
- 3) Resolution 91-31, March 28, 1991, Diversity Statement [for Wright State University]
- 4) Domestic Partnership Packet of University of Iowa
- 5) Domestic Partnership Program at University of Chicago

**ATTACHMENTS** (which include a variety of documents which either support this report or which might be helpful in the implementation of its recommendations):

- 1) Domestic Partnership Recognition in the Workplace: Equitable Employee Benefits for Gay Couples (and others); Ohio State Law Journal, Volume 51:1067-1087
- 2) City of Seattle, First Year Report, Extension of Medical/Dental Benefits to Domestic Partners, July, 1991
- 3) Letter from President Paige E. Mulhollan to Dr. Edward Spanier, March 16, 1992, copied to Juanita Wehrle-Einhorn, Charles Derry, Charles E. Hathaway
- 4) Memo from Edward Spanier to Paige Mulhollan, May 20, 1992, and attached Task Force on Health Benefits Minutes for the meeting of May 5, 1992, copied to Task Force on Health Benefits Members, available through UBRC
- 5) Breaking the Silence: Employee Benefits for Gay and Lesbian Domestic Partners (University of Minnesota); pages 1-6 [personal testimony]
- 6) Letter from M.I.T. announcing new policy (April 28, 1993)
- 7) Harvard's initial announcement of its new policy (May 22, 1993), sent by Benefits Office as first part of comprehensive packet
- 8) Wright State Student Health Insurance Brochure [showing domestic partnership coverage]
- 9) Vermont Labor Relations Board Ruling, Docket #92-32, June 4, 1993

**Wright State University  
Professional Staff Advisory Council  
Minutes of March 14, 1994**

Joyce Corban called the meeting to order in the Harbage Room at the University Libraries. Council representatives in attendance were: Kathie Barbour, Lois Boehm, Phyllis Cole, Joyce Corban, Ken Davenport, Kim Grant, Steve Hayden, Gerry Petrak, Mike Schulze, Robert Smith, Pamela Wallace-Johnson, Chris Watson, Kevin Watson plus twenty one guests.

**Note:** Dr. Flack was scheduled to attend this meeting, but was out of town and could not attend. We will notify professional staff of the date when he reschedules.

**Benefits for Domestic Partners:** Emmett Orr is one of three PSAC representatives on the Health Benefits Task Force discussing the policy on Health Benefits for Qualified Domestic Partners. He discussed the current proposed policy and asked for Council's recommendation. Pamela Wallace-Johnson moved PSAC endorse the policy as written. Lois Boehm seconded the motion. The vote was unanimous for PSAC to endorse the policy.

**Administrative Reorganization:** Pamela Wallace-Johnson and Lou Faulkner are PSAC representatives on the committee to study the reorganization of university administration that was chaired by Mary Ellen Mazey. The Council discussed the latest recommendation of the committee. Several concerns with the process were mentioned. Pamela sent a letter to Mary Ellen Mazey with these concerns.

**Compensation Policy:** A subcommittee of UBRC including Lou Faulkner and Pamela Wallace Johnson is working on a draft recommendation regarding possible compensation increases for next year.

The next PSAC meeting will be held **Monday, April 11 at 3:00 p.m.** in the Harbage Room on the 4th floor of Dunbar Library.

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Kimberly Grant (96)  
Ext. 2184

*AGENDA*  
**Professional Staff Advisory Council**  
**March 14, 1994**

1. President Flack
2. Domestic-Partner Benefits - Emmett Orr
3. Personnel Issues - Kim Grant
4. Task Force on Administrative Reorganization - Pamela Wallace-Johnson
5. Compensation Policy - Pamela Wallace-Johnson
6. Presidential-Committee Appointees
  - VP for Business & Finance - Roberta Boyd, Kevin Watson
  - VP for University Advancement - Denise Thomas
  - VP for Student Affairs - Willie Boyd, Michael Coakley, Joyce Corban, Ken Davenport, Emmett Orr
  - Nutter Center Director - Jeff Vernooy
  - Administrative Reorganization - Lou Falkner, Pamela Wallace-Johnson
7. Committee Reports