

The Right Flier

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A Short Essay on (the Lack of) Domestic Partnership Benefits at Wright State University: Two Arguments and Some Ironies



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1. A History of the Issue: OR... Do You Remember 1991?

Since 1991, there has been lobbying by faculty for domestic partnership benefits for gay and lesbian employees. These benefits would be in the spirit of the non-discrimination statement espoused by the University, which reads "The policy of Wright State University is to not discriminate against any persons on the basis of race, religion, color, sex, sexual orientation, disability, veteran status, national origin, age, or ancestry." I first made a personal appeal directly to President Paige Mulhollan in October of 1991, now almost *fourteen years ago*, when my partner of (now) 25 years was denied a tuition waiver by Human Resources. We had both wanted to take a French class together.

The basic idea of domestic partnership benefits is that it is inherently unfair for married employees to be given a variety of fringe benefits for their spouses and families (particularly tuition waivers and access to health insurance), that are withheld from gay and lesbian employees. Equal remuneration should be given for equal work; that the federal and state government does not yet allow gays and lesbians to marry their preferred partners should not affect the University's commitment to try, as much as possible, to administer salaries and benefits equitably to straight and gay employees alike.

Shortly thereafter, Dr. Mulhollan, moved by my presentation, indicated to me that he intended immediately to enact such benefits, including tuition reimbursement, reserving only health benefits to be accorded at some point in the near future. In a letter to Edward J. Spanier, then Vice President for Business and Finance, dated March 16, 1992, and copied to me and Juanita Wehrle-Einhorn, Director of Affirmative Action, Dr. Mulhollan wrote: "As you know, both state and university policy prohibit discrimination on the basis of sexual preference... I have asked Joyce Carter [of Human Relations] to arrange that all benefits other than medical/dental be extended to such individuals." In this letter, Dr. Mulhollan implicitly admitted that the University was discriminating in violation of its own policies. On the issue of medical/dental benefits and "possible legal obstacles," he asked that the extant Health Benefits Task Force "address the issue and give us its recommendations..."

Unfortunately, Dr. Mulhollan came to me later and regretfully recanted, indicating that Dr. Spanier insisted that the President did not have the legal authority to enact benefits, and that I/we would have to work through the Wright State bureaucracy, because of Spanier's belief that these benefits might be illegal and violate the United States Internal Revenue Code. As it turns out, these "legal" objections were ungrounded, as hundreds of universities have since demonstrated. Even in 1991, benefits could have been enacted without legal problem (although health insurance for registered domestic partners did and does require gay and lesbian employees to declare the benefit as federal income). Nevertheless, as a result of Dr. Spanier, domestic partnership benefits at Wright State were limited to bereavement leave, and even these policies not particularly publicized. One suspects that the "legal" objections masked the real issue: either homophobia and/or the fear that perceived controversy could impact the Ohio legislature's funding of WSU.

At Dr. Mulhollan's request, presentations by gay and lesbian faculty to the Health Benefits Task Force in 1992 showed precisely how these benefits could be enacted. The Task Force was sympathetic, but under the influence of Dr. Spanier, who was its key member, asked that a more exhaustive study be undertaken, including a written report.

In late 1992, the expressly-formed Subcommittee on Domestic Partners Committee undertook precisely that study. In their *40-page report*, issued in October of 1993 and still available for perusal, this committee--chaired by Dr. Maggie MacDonald (Associate Professor of English), and including Emmett Orr (Associate Dean of the School of Professional Psychology), Dr. Robert Putnam (Professor of Anatomy and Physiology), Dr. Wehrle-Einhorn, and myself--demonstrated conclusively that the University *could* legally enact benefits, that universities across the country were moving toward them, that the cost was minimal, and that there was no evidence of fraud or any significant problem at any institution that had enacted benefits. Every potential legal, practical, or economic objection to domestic partnership benefits was debunked. This committee even provided forms for the University to use to register partners and implement these benefits. This report was given to the University Budget Review Committee, which in 1994 recommended that the Report be accepted and that domestic partnership benefits, as proposed by their own subcommittee, be enacted. However, in the interim, Dr. Mulhollan turned in his resignation and took no further initiative on this issue, despite his earlier promises.

When Dr. Harley Flack arrived as the next President of WSU, domestic partnership benefits were again put on hold, pending the creation and deliberations of his Campus Climate Committee. After a year of meetings, the committee's Gay and Lesbian Subcommittee, composed of both straight and gay faculty/staff from throughout the University community, issued a variety of recommendations, including the passage of domestic partnership benefits as its *highest* and *most important* goal, ahead of all others. These priorities were included in the final report of the Campus Climate Committee. Notably, the recommendations relating to gay and lesbian issues were, by and large, the only truly *ignored* portions of the report.

Meanwhile, as institutions across the country were moving fast to approve these benefits, President Flack in 1996 met with forty discouraged members of Allies, the organization of gay and lesbian faculty/staff and their supporters, and listened to the moving articulation of the need for these benefits from employees who have long felt second-class, despite their achievements for the University. Dr. Flack heard testimony, too, regarding casual anti-gay sentiments WSU employees have been subjected to. At this meeting, Dr. Flack revealed that at least *some* of the opposition historically came from unnamed members of the Board of Trustees (as then constituted). If true, it's unclear whether that opposition was sheer homophobia, or a hesitation to allow Wright State to be seen as a leader in an area perceived as controversial.

On January 26th of 1998, an E-mail from Jeff Trzeciak--Head of Automated Service at the Dunbar Library, as well as Chair of ALLIES--indicated he was leaving WSU to take a position at Wayne State University in part because domestic partnership benefits there would allow his partner to pursue academic study and be eligible for health care. Jeff may have been the first to leave Wright State because of this issue, but not the last. As more and more universities--from highly prestigious private schools like Harvard and Stanford, to public institutions like Ohio State University, the University of Iowa, the entire Vermont and California systems, and others--have enacted these benefits, Wright State is now setting itself up at a *competitive disadvantage*. How many prospective superior employees are we no longer able to compete for and attract? Indeed, "to counter competitive disadvantage" may be the strongest current argument and is why even conservative industries and businesses have moved rapidly to institute these benefits.

In 1998, Dr. Flack died and was replaced by a new internal President, Dr. Kim Goldenberg, originally working alongside Perry Moore as Provost. At various meetings early in their new jobs, both men asserted, very impressively (and here I paraphrase): *we do not need more studies or more committees, we need action on a variety of initiatives already long on the table.*

In June of 1998, in a letter to President Goldenberg and Provost Moore, I asked them to consider this: "[that] *there comes a time when leaders must make a principled stand* and confront prejudice and fear... even if that

confrontation creates publicity or personal discomfort because it is challenging others' values. Now that the two of you are running the University, it is *your* names which are associated with these policies. Can you together consider taking a pro-active stand? Because otherwise, the Board of Trustees is saying, in its reluctance to enact these benefits, that Wright State is an institution that embraces a bigoted position, and that it has *no* leaders who are willing to confront this prejudice and effect progressive change."

In September of 1998, Dr. Moore wrote me that the issue seemed appropriate for union bargaining and that I should take it up with the union [rather than the administration]. So the buck was passed yet again: more procedural hell. Although subsequently, the union did argue for domestic partnership benefits, the administration, acting presumably on their own wishes and/or those of the Board, was opposed. Domestic partnership benefits did *not* appear in the first contract, dated 1999 - 2002, nor in the second contract, dated 2002 - 2005. Seven years into the Goldenberg administration, fourteen years after Paige Mulhollan acknowledged discrimination, Wright State still lacks domestic partnership benefits.

For years, the most constant argument in opposition was that Wright State did not *want* to be in the forefront of this kind of change. Well, that forefront is long gone. Ohio State University, the premiere university in the Ohio system, has enacted domestic partnership benefits, as have the state schools Miami, Ohio University, Cleveland State, and Youngstown State. Other Ohio schools with these benefits include Antioch, Baldwin-Wallace, Case Western Reserve, Capital (a Lutheran school in Columbus), the College of Wooster, Denison, Hiram, and Kenyon. And Oberlin has had these benefits since 1992--well over a decade! Hundreds of colleges and universities--both public and private--have enacted these benefits without problems.

So Wright State need not worry about undue recognition as a leader. But we *do* have to worry about our growing reputation as a *reactionary university* in the Ohio state system, a fearful school that could not act upon its professed convictions of equal opportunity--whether out of fear of controversy and of offending legislators, or out of our own institutional homophobia.

And that is why I ask the administrators who will be negotiating the new contract to *not* take an adversarial position and to SIGN ON to domestic partnership benefits. Indeed, the administrators--if they have the future of WSU at heart--should be the ones lobbying the union and insisting! And I ask our union negotiators and our AAUP members not only to SIGN ON, but to recognize the moral importance of this issue: an injustice to some is an injustice to all. And particularly, I ask the Board of Trustees to at least recognize the competitive advantage of these benefits and to find the courage, once and for all, to SIGN ON!

2. A Personal Argument

I think many in the WSU community don't understand what an emotional issue this is for their gay and lesbian colleagues. There is not a day of my employment that I don't feel second-class here, despite that I'm currently in my 27th year. Yet Wright State and I have done well by each other. I appreciate the opportunities WSU has given me: sabbaticals, research grants, travel, the extraordinary academic freedom of my teaching, access to facilities, inspiring colleagues and administrators. And certainly my current Chair, Dean, and President have always shown me the utmost personal respect. Yet I feel compelled to add that I have done well for the University, too: two Program Excellence awards from the Ohio Board of Regents, one for the department I belong to, one for the Motion Pictures program I coordinate. And in 2002, I received the Board of Trustees Award for Faculty Excellence and spoke at the June commencement.

And yet... I do *not* have the same benefits as my straight colleagues. To give just one galling example: A former WSU faculty member's *third* wife was eligible for tuition remission and health insurance upon his first day of employment, yet my partner of 25 years is *still* not eligible upon my 27th year of employment. To add even more irony: spousal benefits continued for this professor even after he was terminated for having had a totally falsified resumé: the administration allowed him to serve out additional quarters of the academic year to avoid a lawsuit.

Allowances were made for him and his spouse, but still *my* partner was not eligible to receive health insurance or tuition remission. Is this fair?

One of the worst days of my 27 years at Wright State took place in November of 1993 when a memo was distributed to the Budget Review Committee by a faculty member opposed to domestic partnership benefits who asked if we “[should give benefits to] Employees who keep animals as lovers. The State of Ohio will not allow you to marry Beulah the Sheep, no matter what feelings you may have for her and no matter how long you shack up with her; does it follow that the University should pay for her veterinary bills?” What is so extraordinary about this de-humanizing comparison of gay and lesbian human beings to *animals* is that no member of the Administration on any level has ever issued any written or public disavowal of these circulated sentiments. It is 12 years later, and I am still waiting...

The very next year, in 1994, my partner Tom (a human being, not Beulah, the sheep) was struck by a car while on his bicycle--ending up in critical condition for a week--requiring an emergency craniotomy and at least four additional surgeries. Ironically, I was not contacted until 10 PM, when I was tracked down at my Wright State office, where I was working late. And yet, for all Wright State cared, at least *institutionally*, his health--indeed, his very life--was not worth insuring. Thankfully, Tom had insurance through his own employment.

Especially now, with the passage of Issue One and the targeting of Ohio's gay and lesbian citizens, it is more important than ever to go forward with domestic partnership benefits. The Ohio state schools that have already passed these benefits have indicated that they are going to fight in court any potential attempt to use Issue One to rescind these benefits. Their legal counsels are committed to fairness and non-discrimination, should they be required to fight. In fact, Ohio State has already articulated its legal argument showing why Issue One should have no impact on its benefits. And Governor Taft has indicated that despite Issue One, colleges and universities retain their right to promulgate these benefits. And in a press release previously issued to discuss the Defense of Marriage Act, the Governor wrote: “The bill allows state universities--whether unionized or not--to provide domestic partner benefits. Under R.C. 123.14(F), the boards of trustees of state-supported colleges and universities have the discretion to decide to whom they will offer benefits.” Further, Taft wrote: “This new law ... reinforces the importance of traditional marriage within our society, but also allows for the public and private provision of benefits to persons within non-traditional relationships. For these reasons, I signed HB 272 into law today.” [See <http://governor.ohio.gov/releases/020604DOMA.htm> for the official press release from the Governor.] And the ACLU has offered its legal services to any Ohio state school which passes benefits, whose benefits are challenged in court. And so Issue One should not now be used as only the newest reason for Wright State to yet again embrace timidity and cowardice.

Although I feel great loyalty to Wright State, the truth, too, is that if I were graduating as a young Ph.D. in today's marketplace, I would *never* consider taking a job here, precisely because of its lack of domestic partnership benefits and the problematic, unenlightened culture implied by that lack. And I believe Wright State would be a poorer place for my absence. And there are thousands of others--gay and straight alike--who would feel the same way about taking a job at an institution increasingly on record as a reactionary hold-out on this issue. I hope these benefits can be achieved within my Wright State lifetime and ideally in our next union contract. And I ask all of you reading this: faculty, administrators, board members--all of you who care about the future of this university that so many of us have devoted much of our lives to--to join this cause and support domestic partnership benefits now.

3. The Promised Ironies

Finally, what's a political history without some ironies?

The WSU union has supported domestic partnership benefits the last two contracts and intends to support them again. Yet their passage may depend most not on the union, but on the attitudes of the administrators, university officers, and board members who have the ultimate ability to say yes to the union request. Ironically, almost

everyone on the list that follows comes from at least one school that has already enacted domestic partnership benefits. Can these individuals be as progressive and courageous as the institutions they come from?

Among the Board of Trustees:

- **Don R. Graber** received degrees from Ohio State University and Ohio University, which both currently offer domestic partnership benefits.
- **Martin Jenkins** received degrees from Capital University Law School and Ohio State University, which both currently offer domestic partnership benefits.
- **Matthew O. Diggs** received degrees from Purdue University and from Harvard, which both currently offer domestic partnership benefits.
- **J. Thomas Young** received a degree from Miami University, which currently offers domestic partnership benefits.
- **Lester L. Lyles** received a degree from New Mexico State University, which currently offers domestic partnership benefits.
- **Robert C. Nevin** received degrees from Williams College and the University of Pennsylvania Wharton School, which both currently offer domestic partnership benefits.
- **Bonnie G. Langdon, Jamie King, and Michael Adams**, all of whom have degrees from Wright State University, are the only board members who do not have a personal connection to domestic partnership benefits.

Among the Administration's Negotiating Committee:

- **Bill Rickert**, Associate Provost, received degrees from Illinois Wesleyan University, Central Michigan University, and the University of Michigan, all three of which currently offer domestic partnership benefits.
- **Richard Johnson**, Employee Benefits Manager, Human Resources [who is expected to be called in, as previously, for supporting information] received a degree from Iowa State, which currently offers domestic partnership benefits.
- **Bonnie Mathies**, Associate Dean, College of Education and Human Services, received a degree from the University of Toledo; and although the University of Toledo does not have domestic partnership benefits, on February 23rd of this year, 40 protestors, including faculty and staff domestic partners, and including the partner of the Vice-Provost there, who led the protest, walked into a meeting of the University of Toledo's Board of Trustees, many with their mouths taped shut, in silent protest of the Board's refusal to institute benefits.
- **Mary Ellen Mazey**, Dean, College of Liberal Arts, received degrees from West Virginia University and the University of Cincinnati, which do not yet have domestic partnership benefits. Ironically, many companies in Cincinnati have led the way in already enacting domestic partnership benefits, including the conservative company Procter & Gamble, and the Federated Department Stores--both of them Fortune 500 companies.

Among Upper-Level Administrators:

- **Kim Goldenberg**, President of Wright State, received degrees from the State University of New York at Stony Brook, Albany Medical College, and the Polytechnic Institute of New York, all three of which currently offer domestic partnership benefits.
- **David R. Hopkins**, Provost, received degrees from Indiana University and the College of Wooster, which both currently offer domestic partnership benefits.

- **Matthew V. Filipic**, Vice President for Business and Fiscal Affairs received two degrees from Ohio State University, which currently offers domestic partnership benefits.
- **Dan Abrahamowicz**, Vice President for Student Affairs, received degrees from Cleveland State and Ohio State, which both currently offer domestic partnership benefits.
- **Lillie P. Howard**, Vice President for Curriculum, received a degree from the University of New Mexico, which currently offers domestic partnership benefits.
- **Marcia G. Muller**, Vice President for University Advancement, received degrees from Albion College and Northwestern University, which both currently offer domestic partnership benefits.
- **Joseph F. Thomas**, Vice President for Research and Dean of Graduate Studies, received degrees from Cornell University and the University of Illinois, which both currently offer domestic partnership benefits.
- **Jacqueline McMillan**, Executive Assistant to the President and Secretary to the Board of Trustees, received a degree from Central Michigan University, which currently offers domestic partnership benefits.
- **Gwen M. Mattison**, General Counsel, has degrees from the University of Toledo, and she is the only executive officer within upper-level administration who has no personal connection to domestic partnership benefits. As described above, the University of Toledo was recently the site of publicized protests at its Board meeting precisely for not having these benefits.

Check the AAUP-WSU Website

Contract negotiations between AAUP-WSU and the WSU administration have reached the critical point of discussing faculty compensation, benefits, and other financial matters. The latest developments are posted weekly on the AAUP-WSU website,

www.wright.edu/admin/aaup/aaup.html

Summer Institute

If you want to become more actively involved in AAUP, consider attending the 2005 Summer Institute from July 21 to July 24 at the University of New Hampshire in Durham. You and several WSU colleagues will join other AAUP chapter members from across the nation for an intensive learning experience. Workshops and seminar presentations cover such subjects as membership recruitment, higher education data and research, preparing for grievance arbitration, analyzing university finances, negotiating health and welfare benefits and many other pertinent topics. Visit the AAUP website at www.aaup.org and click on Events for more information. If you would like to participate, please contact a member of the Executive Committee.

Spring Quarter Chapter Meeting

When: Friday, May 20, 2005
Noon to 1:30 pm

Where: Studio B, Center for Teaching & Learning, 023 Dunbar Library & Lake Campus 151 Dwyer

What: Chapter Reports & Contract Negotiation Update

Refreshments will be served.

MAIL TO: