

# Joint Statement in Favor of Maintaining Domestic Partner Benefits

June 2004

We, the undersigned, are organizations and individuals working for equality for lesbian, gay, bisexual, and transgender (LGBT) people and their loved ones. We share a concern that some Massachusetts employers are considering eliminating their domestic partner health benefits plans now that same-sex couples may marry in that state. We urge employers to maintain their domestic partner benefits policies even after civil marriage is available to same-sex couples.

Domestic partnership is not a substitute for marriage. Likewise, marriage is not a substitute for domestic partnership. The two options serve different purposes for different people in different situations. We believe there are important reasons why domestic partner benefits policies should be maintained after same-sex couples have the right to marry. These include:

1) Domestic partner benefits were originally developed to recognize family diversity in the workplace, not as a temporary solution until same-sex couples have the option of marriage.

The first workplace to write a domestic partner benefits policy was The Village Voice newspaper, which made "marital" employment benefits available first to unmarried heterosexual employees in long-term relationships, and later expanded their policy to include gay and lesbian domestic partners.(1) Some employers argue that domestic partner benefits are no longer necessary once all employees are free to get married. In fact, though, these benefits were originally intended as a way to provide fair and equal treatment to the growing diversity of employees' families, both married and unmarried, and to reduce marital status discrimination.

2) Most employers' domestic partner benefits plans do not have a provision that says, "If you can marry, you must marry."

92% of employers who offer domestic partner benefits make them available to both same-sex and different-sex couples.(2) These employers have no reason to consider eliminating their policies, since they do not rely on marriage as the sole way to define employees' families (that is, they allow heterosexual employees to receive benefits for a nonmarital partner). Recent interviews suggest these employers with inclusive policies are far less likely to plan to withdraw their policies as same-sex couples gain the opportunity to marry. We strongly recommend that employers who are among the small minority offering domestic partner benefits only to same-sex partners consider expanding their policies to be inclusive, the approach which is becoming standard business practice, rather than eliminating domestic partner benefits entirely.

3) The cost to offer the benefits is low, and they bring potential savings in recruiting and retaining employees.

Numerous studies of domestic partner benefits plans have found that on average, these benefits increase health care costs only 0.5% to 3%. Researchers' conclusions tend to use phrases like "not a costly proposition for employers," and "companies consistently reported the financial impact of DP benefits as "negligible" or "minimal."(3) These costs are likely to decrease as many same-sex couples get married, leaving fewer domestic partners in need of benefits. Many employers find domestic partner benefits are a small price to pay for the competitive advantage they receive in employee recruitment and retention. One survey of 279 human resources professionals representing nineteen industries found that domestic partnership benefits were among the top three most effective incentives for recruiting new hires.(4)

4) Employers should provide equal pay for equal work.

Benefits make up a significant part of employee compensation. If two employees do the same job equally well, they should not receive benefits or be ineligible for benefits based on their marital status. There is no logical reason why civil marriage should be the dividing line between which employees' families are eligible for benefits, and which employees' families are not. If an employer recognizes the value of supporting employees' families, demonstrations of caregiving and emotional and financial interdependence (as outlined in the affidavits of domestic partnership used by many employers) are a more accurate way to define who is "family" than marriage licenses.

5) Some employees with a same-sex partner will live in states where their marriage will not be respected, or where their marital status will be uncertain.

Currently, Massachusetts will only grant marriage licenses to couples who reside in the state or intend to. Even if this policy is changed, there remain many legal questions about whether a same-sex couple's marriage created in another state will be recognized in the couple's own state. Employers who eliminate their domestic partner policies risk cutting off partners and children who are still dependent on the benefits, but who have sound legal reasons for deferring or deciding against marriage. Administering different benefits policies depending on what state employees live in is likely to be unnecessarily expensive and time-consuming for the employer.

6) Marriage equality for same-sex couples is not yet guaranteed for the long-term.

We hope the day will not be far off when same-sex couples enjoy equal marriage rights in every state in the country. However, there are many groups working to reinstate marriage discrimination in Massachusetts and to challenge any other state or city government that respects the marriages of same-sex couples. There is a proposed amendment to the federal Constitution pending in Congress which would make it impossible for any state to perform or recognize the marriages of same-sex couples. Employers who eliminate their domestic partner policies now could regret this decision if they later have to re-establish them if the freedom to marry is denied to same-sex couples as a matter of federal law in the future.

Our community appreciates those employers who have policies that treat

LGBT employees fairly and equally. We understand employers' desires to keep their policies up to date as state and national laws change regarding marriage and LGBT people. We hope employers will consider carefully the factors we discuss above when considering the future of their domestic partner benefits policies, and will understand that marriage and domestic partnership can and will continue to exist side by side, two parts of the landscape of family in America.

Signatories to date:

Children of Lesbians and Gays Everywhere

[www.colage.org](http://www.colage.org)

415.861.KIDS

Family Pride Coalition

[www.familypride.org](http://www.familypride.org)

202.331.5015

Gay and Lesbian Advocates and Defenders (GLAD)

[www.glad.org](http://www.glad.org)

617.426.1350

Human Rights Campaign

[www.hrc.org](http://www.hrc.org)

202.628.4160

Institute for Gay and Lesbian Strategic Studies

[www.iglss.org](http://www.iglss.org)

413.577.0145

Lambda Legal Defense & Education Fund

[www.lambdalegal.org](http://www.lambdalegal.org)

212.809.8585

National Center for Lesbian Rights

[www.nclrights.org](http://www.nclrights.org)

415.392.6257

National Gay and Lesbian Task Force

[www.TheTaskForce.org](http://www.TheTaskForce.org)

202.393.5177

Parents, Families and Friends of Lesbians and Gays (PFLAG)

[www.pflag.org](http://www.pflag.org)

202.467.8180

Pride At Work, AFL-CIO

[www.prideatwork.org](http://www.prideatwork.org)

202.637.5085

Alternatives to Marriage Project

[www.unmarried.org](http://www.unmarried.org)

518.462.5600

Signatory organizations are able and willing to assist and consult with employers regarding their domestic partner benefits plans.

If your organization is interested in adding your name to this statement, contact the Alternatives to Marriage Project.

Sources:

(1) Holcomb, Desma. "Domestic Partner Health Benefits: The Corporate Model vs. the Union Model." In Hunt, Gerald, ed. *Laboring for Rights: Unions and Sexual Diversity Across Nations*. Philadelphia: Temple University Press, 1999, p. 106.

(2) Human Rights Campaign Foundation. *State of the Workplace for Lesbian, Gay, Bisexual and Transgender Americans 2003*. Washington, D.C., 2004, p. 23.

(3) Badgett, M. V. Lee. "Calculating Costs with Credibility: Health Care Benefits for Domestic Partners." *Angles*. Amherst, MA: Institute for Gay and Lesbian Strategic Studies, 2000. Hewitt Associates. "Update to 1994 Study of Domestic Partner Benefits." Lincolnshire, IL: 1997. Kohn, Sally. *The Domestic Partner Organizing Manual for Employee*

Benefits. Washington, D.C.: The Policy Institute of the Gay and Lesbian Task Force, 1999. Domestic Partner Benefits: A Trend Toward Fairness. Washington: National Gay and Lesbian Journalists Association, 1997. How To Achieve Domestic Partner Benefits in Your Workplace. Washington, D.C.: Human Rights Campaign Worknet, 2002.

(4) Human Resources Management, Issues & Trends. Commerce Clearing House, 16 June 1999.