



Seven Easy Steps For Adding Domestic Partner Benefits To Your Union Contract

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The labor movement believes that all employees deserve equal pay for equal work. Adding domestic partner benefits to your collective bargaining agreement makes sure that your lesbian, gay, bisexual, and transgender employees have comparable benefits to their heterosexual counterparts.

Below, please find some steps that you can take to add domestic partner benefits to your union contract. If you are in contract negotiations, it might be helpful to set up a domestic partnership benefits committee that can help move these benefits forward and also prepare rebuttals to any employer objections. If you have any additional questions, or would like further explanations, please feel free to call the national office of Pride At Work at 202-637-5014.

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Step One: Research, Research, Research!

As with any contract negotiation, you will need to come to the bargaining table prepared. With the current health care crisis in this country, your bargaining committee definitely needs to have data to rebut management's objections. Come to the bargaining table with evidence that that adding domestic partner benefits to the benefits package will not cause health care costs to skyrocket.

You will need to know what employers in similar sectors are offering their employees. For instance, if you are bargaining for flight attendants at United Airlines, you should investigate whether American, Southwest, and Continental offer domestic partner benefits.

We encourage you to check out the website of the **Human Rights Campaign (HRC)** when researching your contract negotiations. You can find them on the web at <http://www.hrc.org>. The staff of Pride At Work is also happy to work with you if you are having trouble finding relevant data for your contract negotiations. You can find us at <http://www.prideatwork.org>.

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Step Two: Non-Discrimination

Before we add domestic partner benefits, let's make sure your contract's non-discrimination clause includes protections for sexual orientation and gender identity / expression. There is no federal legislation protecting LGBT people from

discrimination on the job. Most states also lack similar legislation. For that reason, contract non-discrimination clauses are the front-line defense for LGBT people against discrimination and harassment on the job. Here is a sample non-discrimination clause for your contract:

*“The employer will conform to and comply with all applicable federal, state, and local government laws concerning discrimination. The employer further agrees not to discriminate against any employee, including but not limited to: hiring, placement, upgrading, transfer, promotion, demotion, job assignment, or discipline including, but not limited to: age, ancestry, citizenship, ethnicity, family-care status, **gender identity, gender expression, marital status, medical condition, disability, race, religion, sex, sexual orientation, and veteran status.**”*

***Please Note: It is essential that your non-discrimination clause contain language that includes gender identity and gender expression. Transgender people and persons who do not fit into typical stereotypes about gender expression can often face disturbingly abusive (and sometimes violent) discrimination on the job. Because state laws outlaw discrimination on the basis of gender identity and gender expression even more rarely than they protect on the basis of sexual orientation, your union non-discrimination clause must include gender identity and gender expression.**

In addition to the non-discrimination clause, your contract should include explicit anti-harassment language that includes protections on the basis of gender identity, gender expression, and sexual orientation.



Step Three: Define Spouse or Partner

Make sure your contract consistently defines spouse or partner in a way that is inclusive of LGBT couples. You can simply add a sentence that states that same-sex and opposite-sex spouses and partners are valid for terms of this agreement. If you insert a definition of spouse or partner, ensure that the defined word is used consistently throughout the contract.

Also, do not forget other family members. It is important to explicitly ensure that your definition of family extends to other relationships beyond the domestic partner. For example, if your partner is eligible to be a spouse for the purposes of the contract, you will be entitled to bereavement leave in the event of your partner’s death. This will not necessarily be so, in the case of your partner’s mother’s death – unless your contract explicitly says so. Equally important is the designation “child”. Ensure that parental and adoption leaves, insured benefits coverage, etc., recognize the children of all domestic partners. Your contract should expand the word “child” with the additional description such as “partner’s child,” “spouse’s child,” “child to whom the employee acts as parent,” and so on.

Many employers require that domestic partners sign an “affidavit of domestic partnership” to be covered as a domestic partner. Pride At Work believes that all employees should be treated equally and that domestic partners should not have to fill out these affidavits since their heterosexual married counterparts do not.

However, many health plans require these affidavits, and they often cannot be circumvented. If this is the case, they may require that domestic partners show proof that they are living together and proof of financial interdependence (i.e., rent payments, utility bills, joint checking accounts, etc.).



Step Four: Health Insurance

When domestic partner benefits were first being bargained by union contracts, few health insurance providers carried the benefits. Today, things have changed considerably. Many health insurance providers will cover these benefits without any additional surcharges. You may need to negotiate these benefits with your health insurance provider. Check with your health insurance provider to find out how to obtain domestic partner benefits through their program.

Is your employer or your union self-insured? Then it may be easier to change your benefits plan to include domestic partners. Contact the plan administrator and ask what the process is for adding these benefits.

COBRA

Because COBRA (the Consolidated Omnibus Budget Reconciliation Act of 1995), is a federal law, it does not include inclusive language regarding domestic partners. COBRA allows an employee to pay to extend health coverage upon termination of employment. COBRA does not extend that right to domestic partners. You will need to add a sentence to your COBRA clause that specifies that the employer extends this benefit to domestic partners.

Transgender Health Benefits

You should find out if your health insurance covers the health needs of transgender employees. Pride At Work can help you with finding health insurance that meets the needs of transgender employees, including hormone therapy, surgical procedures, and electrolysis. Please give us a call at 202-637-5014 and we'll walk you through the process.



Step Five: Leave

FMLA

The Federal Family and Medical Leave Act, passed in 1993, requires employers grant an eligible employee up to a total of 12 work weeks of unpaid leave during any 12-month period for one or more of the following reasons:

- for the birth and care of the newborn child of the employee;
- for placement with the employee of a son or daughter for adoption or foster care;
- to care for an immediate family member (spouse, child, or parent) with a serious health condition; or
- to take medical leave when the employee is unable to work because of a serious health condition.

FMLA does not include specific language that is inclusive of domestic partners. You must add language to your collective bargaining agreement that extends all benefits of

the FMLA (and any state laws that might address this issue) to domestic partners. Here is some sample contract language:

“Although employees are not eligible for FMLA leave to care for a domestic partner or dependent child of a domestic partner under federal law, (employer) will provide an equivalent type leave to employees who must care for a same-sex domestic partner or dependent child of that partner, who otherwise would be eligible for FMLA leave.”

Bereavement and Compassionate Leave

Many companies offer employees time off to attend to the death of a family member. Once again, make sure your definition of family, spouse, or partner, are consistent throughout the contract and that domestic partners and their family are included in the definition of family for bereavement and compassionate leave.

Sick Leave

Most collective bargaining agreements allow for employees to use their sick leave to take care of a sick family member. You should make sure this language is inclusive of domestic partners and their children as well. Here is some model language:

“Employees shall be allowed to use sick leave to care for an immediate family member, domestic partner, domestic partner’s immediate family, and to children to whom the employee acts as parent..”



Step Six: Pension Benefits

The most complicated step to making an inclusive collective bargaining agreement is extending pension benefits to domestic partners. In the event of the death of an employee it is important that his or her domestic partner is listed as a beneficiary of their pension benefits.

If the plan is a defined-benefit plan or 401k plan, the employer or union can allow employees to choose their beneficiaries. Here is some model language (we have more language available, please call us for more info):

“In lieu of a Regular, Early Retirement or Disability Pension otherwise payable to him / her, a participant who is not married or a married participant who has properly rejected the Husband-and-Wife pension benefit may elect to receive the payment of his / her pension on the basis of a Contingent Annuitant Option, in accordance with which he / she will receive a lower monthly amount with the provision that 50% of that lower amount is continued after her death for the lifetime of the Contingent Annuitant, designated by the Participant, if the Contingent Annuitant is living, after the Pensioner’s death.”

If the employer or union also offers life insurance for employees, make sure that the plan allows the employee to list anyone, including a domestic partner, as a beneficiary of the life insurance.

Note: It is important that your domestic partner to be listed as the beneficiary of pension benefits and life insurance. If the partner is not listed as the beneficiary, the courts will

most likely give all of these benefits to a biological family member over the domestic partner.



Step Seven: International Union Benefits

The final step, and hopefully the easiest, is making sure that all your international union's member benefits programs are open to domestic partners of your members. For instance, many international unions have contracted with outside brokers to offer discounted health club memberships, loans, mortgages, credit cards, pharmacy programs, and other benefits to their members. Take some time and go through the list and then make sure that every benefit offered is available to members' domestic partners. If all of the programs are not open to domestic partners, you should contact your international union office to begin the process of extending these member benefits.

Closing Thoughts

Adding domestic partner benefits to your collective bargaining agreement is a matter of economic justice. The denial of these benefits means that some of your members receive less pay for the same amount of work. Domestic partner benefits provide real remedy for this substantial problem.

Remember: this process will take some time, but the benefit to your members is well worth the time and energy. If you have any questions or are not sure how to proceed, please feel free to give the national office of Pride At Work, AFL-CIO a call at 202-637-5014. We are happy to assist you and research what other unions in comparable sectors are offering their members.

Pride At Work, AFL-CIO is the official constituency group for lesbian, gay, bisexual, and transgender workers in the AFL-CIO. Officially chartered as a constituency group in 1999, we work to educate the labor movement about the needs of the lesbian, gay, bisexual, and transgender community and we work to educate the LGBT community about the labor movement. Our chapters work in to bring about social and economic justice in their local communities.

Pride At Work, AFL-CIO

815 16th St, NW

Washington, DC 20006

Phone: 202.637.5014 Fax: 202.508.6923 Email: paw@aflcio.org

Website: <http://www.prideatwork.org>