

Proposal to offer Domestic Partner Benefits to Same Sex Partners at Utah State University

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We propose to offer domestic partner benefits on demand to same-sex partners of Utah State University faculty and staff. These benefits will be comparable to those currently offered to married partners of University employees. Of these benefits, only health insurance coverage represents a potentially significant cost (but see below) to the University if the policy is implemented. Based on current health insurance rates (\$2,021 per member per year for a total of 10,701 members) and total number of University employees (3300) in 2004, the cost of health insurance will amount to about \$0.60 per employee per year for each claimant.

The best current research indicates that the percentage of people who have a lifelong same-sex orientation is about 3 percent of the male population and about 1.5 percent of the female population. Since there are currently 3,042 faculty and staff at Utah State University (of which 52 percent are male and 48 percent female), we can estimate the likely number of gay and lesbian staff and faculty to be approximately 68 individuals. Based on census information about the demographics of committed same-sex couples, 72.8 percent (or 50 individuals) would be expected to be single householder individuals and only 27.2 percent (or about 18 individuals) living with a partner. Based on national demographics, approximately 61 percent of these 18 individuals (or 11 individuals) may be expected to have partners who are also employed and have their own medical coverage through that employment. Thus, a reasonable estimate of the number of individuals for which same-sex couples who would seek new partner medical benefits from USU would be about seven persons.

In order to qualify for domestic partner benefits, employees will complete an affidavit verifying the partnership. We model this document on form A of the Washington State Health Care Authority, which defines domestic partners for benefits purposes at our peer institution, Washington State University (Appendix A). In this form, the criteria for establishing a domestic partner relationship are:

- 1) We have been same-sex domestic partners continuously for a minimum of 6 months.
- 2) We share the same regular and permanent residence.
- 3) We have a close personal relationship in lieu of a lawful marriage.
- 4) We have agreed to be jointly responsible for basic living expenses incurred during the domestic partnership.
- 5) We are not married to anyone.
- 6) We are each eighteen years of age or older.
- 7) We are not related by blood as close as would bar marriage.
- 8) We were mentally competent to consent to a contract when the domestic partnership began.
- 9) We are each other's sole domestic partner and are responsible for each other's common welfare.
- 10) We are same-sex partners who are barred from a lawful marriage.

Applicants also need to be able to provide 3 of the following as evidence of joint responsibility in "basic living expenses":

- 1) Joint mortgage or lease.
- 2) Designation of the same-sex domestic partner as primary beneficiary for a life insurance or a retirement contract.
- 3) Designation of the same-sex domestic partner as primary beneficiary in the employee/covered member's will.
- 4) Durable power of attorney for health care or financial management.
- 5) Joint ownership of a motor vehicle, a joint checking account, or a joint credit account.
- 6) A relationship or cohabitation contract which obligates each of the parties to provide support.

We propose to offer domestic partner benefits to same-sex partners of University employees for the following reasons. First, on January 2, 1993, George H. Emert, then President of Utah State University, signed into action *Utah State University's Commitment to Affirmative Action/Equal Opportunity* (Appendix B). According to this document, "University executives, administrators, faculty, and supervisory staff will ensure that no employee or student is discriminated against/harassed because of race, color, religion, national origin, sex, **sexual orientation** [emphasis added], age, disability, or veteran's status. This prohibition against discrimination applies to all employment- and academic-related practices and decisions." This last statement is particularly relevant to the argument for same-sex domestic partner benefits at Utah State University. Over the years, faculty and staff at Utah State University have been told repeatedly that our excellent benefits compensate in part for our relatively low salaries. In his 2004 online presentation on the proposed tuition increases at Utah State University, President Kermit Hall clearly recognized the salary aspect of benefits in making the argument for tuition-based faculty/staff salary increases (Priority 1: Faculty/Staff Salaries) when he indicated: "Salaries 16% below Regent's peer institutions; Benefits 7% above Regent's peer institutions; Net effect—Total compensation 9% below Regent's peer institutions." With these words, he acknowledged that benefits are an extremely important part of employee compensation at Utah State University. This being the case, those without access to full benefits get less compensation and thus are paid less than those with access to spousal benefits.

The important economic issue at the heart of this matter was recently recognized by the Supreme Court of Montana, which ruled in a 4/3 decision in favor of insurance coverage for partners of gay employees at all of Montana's public universities. According to the American Civil Liberties Union, which represented the couples who brought the suit against the State of Montana, the decision is "a recognition by the Montana Supreme Court that the government can't treat gay people differently on economic issues." According to the USU policy discussed above, neither can Utah State University.

The second reason has less to do with affected individuals and more to do with the health and vitality of the institution. Over the years, USU has lost a number of valued faculty members with same-sex partners due to economic hardships associated with lack of benefits (Appendix C). Lack of health insurance, in particular, compounds the problem of low faculty salaries by requiring employees with same-sex, uninsured partners to spend a portion of their already low

salary on health coverage; they not only get paid less, but they have to spend a portion of those lower salaries on health insurance. Not surprisingly, many seek employment at universities or with other employers that offer such benefits. There are an increasing number of these, including three of our peer institutions (University of California at Davis, Iowa State, and Washington State), a number of universities in our region (University of Colorado, Montana State University and University of Montana, New Mexico State University and University of New Mexico, Washington State University), over 200 other colleges and universities (including California Institute of Technology, Carnegie Mellon, Case Western, Columbia, Cornell, Dartmouth, Duke, Emory, Harvard, Johns Hopkins, Juilliard School of Music, Massachusetts Institute of Technology, Princeton, Rutgers, Stanford, and Yale), and 218 Fortune 500 companies, to name but a few. What these numbers represent is growing recognition in the business/ professional community that to attract and retain the very best, employers have to provide an environment of equality in all aspects of employment. As Utah State University seeks to maintain and improve its reputation as a research extensive university, we must be mindful of the negative impact that failure to provide equal benefits to all employees has had, and will continue to have, on the viability of the institution.

Although the State of Utah recently passed Amendment 3, banning legal recognition of same-sex marriage in the state, legislators have none-the-less acknowledged the rights of gay and lesbian and, more generally, unmarried couples. “[Amendment 3] does not affect individual rights, not one,” said Chris Buttars before the election. “If a company wants to give benefits (to gay couples), they can have at it, nothing stops them (*Herald Journal*, 11-6-04).” On his “www.votehuntman.com” website (8-24-04), Jon Huntsman Jr. further indicated: “as governor, I will work with the legislature to enact “Reciprocal Beneficiary” legislation giving two people with mutual economic interests rights and privileges, such as visitation rights, medical decision making, etc. With or without the successful passage of Amendment 3, this new legislation will be important to all Utahns.” Senator Gregory Bell, R-Fruit Heights, another Amendment 3 supporter, recently introduced such a bill (Senate Bill 89), designed to give people in a “relationship other than marriage” joint property and health care rights.

Appendix A

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Declaration of Marriage/Same-Sex Domestic Partnership



I, _____, certify that (Complete either A or B):

A. _____ and I were legally married on ____/____/____
Print Subscriber's Name Print Spouse's Name month / day / year

-OR-

B. _____ and I established a same-sex domestic partnership beginning
Print Same-Sex Domestic Partner's Name
____/____/____ and we meet the following criteria of same-sex domestic partnership:
month / day / year

- 1. We have been same-sex domestic partners continuously for a minimum of 6 months.
2. We share the same regular and permanent residence.
3. We have a close personal relationship in lieu of a lawful marriage.
4. We have agreed to be jointly responsible for basic living expenses...
5. We are not married to anyone.
6. We are each eighteen (18) years of age or older.
7. We are not related by blood as close as would bar marriage.
8. We were mentally competent to consent to a contract when the domestic partnership began.
9. We are each other's sole domestic partner and are responsible for each other's common welfare.
10. We are same-sex partners who are barred from a lawful marriage.

1 "Basic living expenses" means the cost of basic food, shelter, and any other expenses of the common household. You and your same-sex domestic partner need not contribute equally or jointly to the payment of these expenses as long as it is agreed that both are responsible for them. If requested, you should be able to provide at least three of the following as verification of your joint responsibility (information should be dated to confirm eligibility at time of enrollment).

- Joint mortgage or lease.
Designation of the same-sex domestic partner as primary beneficiary for a life insurance or a retirement contract.
Designation of the same-sex domestic partner as primary beneficiary in the employee/covered member's will.
Durable power of attorney for health care or financial management.
Joint ownership of a motor vehicle, a joint checking account, or a joint credit account.
A relationship or cohabitation contract which obligates each of the parties to provide support.

Subscribers are advised to consult an attorney regarding the possibility that the filing of this declaration may have other legal and/or financial consequences, including the fact that it may, in the event of the termination of the domestic partnership, be regarded as a factor leading a court to treat the relationship as the equivalent of marriage for the purposes of establishing and dividing community property, assigning community debt, and for the payment of support.

It is understood that:

- This declaration shall be terminated upon death of the spouse or same-sex domestic partner or by change of circumstance attested to in this declaration.
Employees will notify their personnel, payroll, or benefits office and retirees and Consolidated Omnibus Budget Reconciliation Act (COBRA)/self-pay members will notify the Health Care Authority at 1-800-200-1004 if the marriage has dissolved or the domestic partnership no longer meets all of the criteria attested to in this declaration within thirty (30) days of a change.

We declare, under penalty of perjury, that the foregoing information provided by us is true and correct and that all provisions of this statement have been met. Washington State law may require disclosure of any information you submit as a public record. The Health Care Authority's Privacy Notice is available upon request by calling 360-923-2822 or online at www.wa.gov/hca.

Subscriber's Signature Social Security Number Date
Spouse or Same-Sex Domestic Partner's Signature Social Security Number Date

**UTAH STATE UNIVERSITY'S
COMMITMENT TO AFFIRMATIVE ACTION/EQUAL OPPORTUNITY**

Equal Opportunity is an essential priority for Utah State University. We are deeply committed to equity in employment and education for all members of the university community. University executives, administrators, faculty, and supervisory staff will ensure that no employee or student is discriminated against/harassed because of race, color, religion, national origin, sex, sexual orientation, age, disability, or veteran's status. This prohibition against discrimination applies to all employment- and academic-related practices and decisions.

In addition to ensuring an environment free of discrimination for faculty, staff, and students, USU supports a positive affirmative action program. "Affirmative Action" is a results-oriented program that recruits, employs, trains, and promotes minorities and women, in order to redress ethnic and gender imbalances in the workforce. In departments/organizations where minorities and women have been historically underrepresented and affirmative action goals have been set, preference will be given in recruitment, selection, hiring, training, and promotional decisions, whenever possible.

Successful implementation of USU'S AA/EO policy requires:

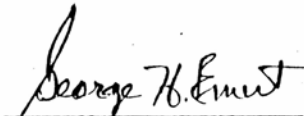
- a. Proactive supervisory responsibility for AA/EO issues and for enhancing diversity.
- b. Understanding of equal opportunity and the prevention of discrimination and sexual harassment on the part of all individuals at USU.
- c. Swift and appropriate action for substantiated equal opportunity complaints.

Dr. Guenter-Schlesinger, AA/EO Director (Old Main 255, Ext. 1266), is the official responsible for receiving, investigating, and mediating complaints of discrimination or sexual harassment. Individuals with discrimination or sexual harassment complaints are encouraged to contact the AA/EO office. Complaints will be handled as confidentially as possible. Retaliation against an individual who has made charges or has participated in any investigation, proceeding, or hearing in regard to alleged violations of equal educational/employment opportunity laws or orders is prohibited.

The AA/EO office also monitors, evaluates, reports, and encourages progress in meeting affirmative action goals and timetables to ensure compliance with University policy in this area. These goals, however, must be ones managers help develop and for which they are responsible.

As President of USU, I have primary responsibility for the AA/EO program. But, I cannot implement this critical program without your personal interest, commitment, and involvement. I expect all personnel, at all levels, to do their part in making AA/EO a reality at USU. Vice presidents, deans, department heads, directors, and supervisory personnel are directly responsible for the implementation of AA/EO policy and any resulting procedures.

Utah State University is dedicated to ensuring ethnic and gender diversity and to providing a healthy EO climate for everyone. We will all benefit from an environment which reflects the differences within our state and nation and one in which all people are treated with dignity and respect. Let us work together to ensure that equal opportunity is not just a cliché, but an integral part of our daily activities.


George H. Emert, President

1 January 1993

Date

Appendix C

“Domestic Partners at Utah State University”

Elizabeth York, Associate Dean

College of Humanities, Arts and Social Sciences

INTRODUCTION

The Faculty Senate sub-committee exploring domestic partner benefits has been a source of strength to me, and I am grateful to them for their tireless efforts on behalf of unmarried partners at Utah State University. It is important for the university community to understand that USU's failure to enforce its non-discrimination policy affects real people with real stories. I have been asked to share some of them with you. All have given permission for their stories to be used.

Beth

I have been a more or less “out” member of the Utah State faculty since 1995. I am here because, during my interviews, I was informed of the Utah State “non-discrimination policy” which included sexual orientation in the list of protected minorities on the USU campus. When I was offered the position, I accepted with the understanding that I could be open about my relationship, and I assumed that this policy implied benefits for same-sex partners. Because my relationship was fairly new, I did not pursue questions about health insurance and spousal accommodation. I accepted our second class status because of the extremely conservative political climate, and was, quite frankly, simply grateful to have a tenure-track position with a supportive department head. My partner and I have gradually felt more comfortable over the years as we attended faculty gatherings, concerts, and other community events, and we have developed a wonderful network of supportive friends and family.

Although I have personally had wonderful opportunities as a USU faculty member, employment has been a constant struggle for my partner. We are moving towards ten years together. She is currently in private practice as a licensed massage therapist, and has also just decided to return to USU to complete her undergraduate degree in theatre. Tuition adjustments afforded to married couples at USU would be helpful in achieving her goals, and, if she does not receive financial assistance, may deter them indefinitely.

Several years ago, my partner was hit on the driver's side by a young man who ran a red light at an intersection near the university. She was taken to Logan Regional Hospital in an ambulance, and I accompanied her to the emergency room. Thankfully, I was allowed to stay while the medical staff completed her examination. Fortunately, she was not seriously hurt, and the young man's insurance covered her emergency room visit. But, I began to understand that, if her injuries had been more extensive, my policy would not have covered her treatment.

The inequities inherent in our situation have become more personal, more immediate, more urgent, especially now that we are both in our 50's and approach our retirement years. She is the executor of my will, holds medical power of attorney, and is, in every way, my life partner. I ask Utah State University to recognize and acknowledge our relationship by affording us the same rights and privileges that any other married faculty member enjoys.

Alison

As a new faculty member in the business school, I have fantastic colleagues that surround me. Although my personal situation may or may not be known to all of them, they all leave my private life private. To me, that is an ideal situation. I am a believer that one's private life has very little place at work. On the other hand, I have not been shy about having my partner attend departmental functions. She and I have always felt welcome at these gatherings.

The difficulty for me comes from life being much more difficult for her. If USU offered domestic partner benefits, many issues would automatically be resolved. Healthcare, for instance, was at the forefront of our concerns. We concluded that the two options for us were either for her to work or return to school. I do think it is unfortunate that health care needed to be a concern—one additional thing for us to worry about as we made the move to Utah. Nonetheless, we were trying to look at our options positively. She has had a desire to return to school and complete a graduate degree; therefore, we thought this would be a win-win solution. She would have educational opportunities and access to student health care. An additional scare came when we read that USU may not be offering student health care in the future. For this year, at least, she will be covered. Student health care is far from ideal (in fact, we have paid through the year, yet have not received any benefits). I know this is more a function of poor management on the company that supplies the benefits rather than USU; nonetheless, if domestic partner benefits were offered, this would not be an issue.

With the decision to return to school came the issue of residency and tuition. The residency office worked with us so that she would be considered a Utah resident. We had minor hoops to jump through: overall, a simple and easy process. Tuition is where I have felt the most strain. As a new faculty member (and the only employed person in the household), coming up with tuition each semester is a huge burden. Another faculty member in my department got married right before school started. His wife is now a full-time student at the reduced tuition rate (I believe 50%). I feel as though I am on the wrong end of a blatant injustice. If domestic partner benefits were offered, I would save \$600 or more each semester. Given financial constraints, she has been limited to taking the minimum number of hours each semester. I know she would like to take more, but paying the full rate has limited our opportunities. I truly hope that USU chooses to offer domestic partner benefits. Benefits would place me on equal footing with my colleagues and add to our feelings of welcoming and acceptance.

Jay

I have been with my partner nearly 6 years, having moved 1,000 miles west to be together, then—in August, 2003—moving nearly 1,000 further west together so that I could accept the post of Education Curator. That's dedication equal to any other couple I know. My partner supports me as I support him. It's true partnership, as we never had a ceremony, don't have rings, and obviously don't have a societal "stamp of approval". But, if USU wants to keep people like me, they'll follow major employers around the nation who provide same-sex domestic partnership benefits which help support employees fairly, without discrimination based on sexual orientation. Why should USU view a newly married heterosexual couple more favorably than a 6, 16, or 60 year same sex relationship?

Note: Jay's story illustrates the issue of faculty retention as it relates to domestic partner benefits. Jay recently informed me that he is leaving USU to accept a better paying position in Salt Lake City. In a recent email, he states, "With the real possibility of free health/dental benefits, more open-minded audiences, and significantly better financial support, etc. . . How could I not accept this position? USU's policies were a contributing factor to our relocation—so as to broaden [my partner's] employment opportunities (as USU does not offer spousal accommodation for same-sex couples). Had he found work at USU, it is quite possible we would not have moved. I would gladly go on the record to say this. But I fear support is apathetic if not altogether absent."

Anonymous

When I took my current position at USU in 2001, as part of my salary negotiation, my partner and I were promised one year of free housing on campus. The accommodation would have saved us roughly \$8000 in rent, utilities and other services (cable TV, Internet, etc.). We completed paperwork through the Housing Office and were allowed to look at several units before choosing one. After making our selection, we received a call from the Housing Office informing us that we would not be able to move into our chosen unit, or any other. We were told that we did not match USU's definition of a "family" and therefore could not be accommodated in family housing. I attempted to speak to several administrators and even took an opportunity to explain my situation to President Kermit Hall. Each time, my meetings were either cancelled or I was told that there was "nothing they could do." The only way I would be allowed to receive the housing portion of my compensation package would be to move into a housing unit by myself. Of course, just as no straight employee would move into a unit without his/her spouse, I also did not move in without mine. I was never compensated for money my partner and I would have saved.

If USU had recognized unmarried domestic partners at the time of this incident, my partner and I would not only have saved a significant amount of money, but we would also have been spared a

very insulting experience. As an employee who spends a good portion of her time promoting other campus services to new students, I found it hard to fully endorse the Housing Office and the University overall for some time. Obstacles like this are neither good for students nor the University. Although I have now settled in at USU and feel committed to my work, having my domestic partner recognized on campus would genuinely enhance my morale and increase my loyalty to USU.

My partner and I would also benefit in other ways if USU recognized domestic partners. We enjoy exercising together, but the current policy requires her to pay for the HPER facility each time we use it. Consequently, we generally exercise elsewhere. Free access to the HPER and Fieldhouse facilities would mean that she and I could swim, play racquetball and indoor tennis, and use the weight equipment free of charge.

Of course, my partner and I would benefit from much more than these specific examples:

Rather than paying more expensive "individual" premiums for dental insurance with our respective employers, we could instead pay one two-party rate.

As my partner's parents' health is beginning to decline, I would enjoy added peace-of-mind knowing that my family, sick and bereavement leave would extend to accommodate me in the event of their illness or emergency.

With a tuition discount in place, my partner would be able to consider more seriously taking classes at USU.

I am encouraged that discussions about domestic partner benefits are happening at USU. I strongly encourage the Faculty Senate Committee and USU administrators to approve this significant option. I know that for me and for many other USU faculty and staff, it would be a very meaningful act of inclusion.

Others

I have connected informally with many other lesbian and gay faculty and staff members over the years. In looking back, I counted 10 who have left the university because of unsupportive situations in their departments, lack of spousal accommodation, and the perceived "silencing" of gay/lesbian issues on campus. One couple left to pursue doctoral studies at another state institution who offered spousal accommodations to her partner.

I counted 11 more who choose to remain "closeted," either because they fear "coming out" would affect tenure/promotion decisions, or because of potential recrimination from their LDS background, or because they had no partner and choose to try to "pass" as straight. One of these couples has also experienced housing discrimination.

In Conclusion

The good news is that gradually, over the years, I have become more courageous about identifying openly as a gay faculty member at USU. Becoming tenured had a great deal to do with my feelings of safety, comfort, and security. Shepherding the USU “Allies on Campus” program with supportive allies like psychologist LuAnn Helms of the Counseling Center contributed to my belief that we could “broaden the base” by training staff and faculty willing to come out as a visible support network to LGBT students—and that our faculty was ready to embrace this idea with an overwhelming vote of support in the Faculty Senate. And that others like Pat Lambert would be willing to exert leadership to develop a proposal that will extend our benefit package—purported to be one of the best in the country, and widely touted as a recruitment tool—to all USU faculty and staff.