

What's Good For the Goose:

A Critical Review of Unions As Employers and
The Continuing Struggle Toward Equal Benefits In The Workplace

by T Santora
Co-President
Pride At Work, AFL-CIO

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Questions or comments regarding this paper may be directed to:

T Santora
c/o 5855 Venice Blvd.
Los Angeles, CA 90019
tsantora@cwa9000.org

INTRODUCTION:

This paper focuses on unions as employers. It reviews the current state of domestic partner benefits offered by unions to their employees and it explores the institutional homophobia¹ in the labor movement today and how it relates to treatment of gay² and non-married union employees with domestic partners. My thesis is that unions that intend to gain equal treatment for their members are better prepared to do so if they can hold themselves up as model employers.

It seems reasonable to assume that unions that offer their gay and non-married employees equal benefits, such as health care coverage, pension, and other fringe benefits for their domestic partners, are apt to make similar demands on behalf of their members. Further, those unions that do offer equal benefits, are more likely to be successful at negotiating similar benefits on behalf of their membership. Consequently, internal union employee efforts to gain these benefits for themselves have far reaching effects for gay and non-married workers everywhere. If true, it is in the interest of union members and union employees to urge, if not demand, that their unions, and union employers, model gay-friendly/marriage-neutral employment practices. This paper explores these assumptions and offers a critical analysis of the issues they raise.

¹Homophobia (from the word homophobe): The state or condition of fearing homosexuals. Webster's Dictionary, The New Lexicon of the English Language. (1988). Encyclopedic Edition. New York: Lexicon Publications, Inc

²As used in this paper, the term "gay" includes lesbians, gay men, bisexuals, and all transgender people.

Two Movements: One Goal

“If you let them red bait, they’ll race bait. If you let them race bait, they’ll queen [gay] bait. These are connected - that’s why we have to stick together.”

Revels Clayton, African American leader of Marine Cooks and Stewards Union (1940's)

There have been openly gay leaders, activists, and members in the American labor movement for decades. As early as the 1930's, Frank McCormick, an openly gay man, was elected as a Vice President of the California Federation of Labor, a position he held for several years (Hunt, 1999, chap. 4). And although never specifically acknowledging homosexuality, the Marine Cooks and Stewards Union (MCS), which represented a very diverse membership that included a large number of gay men, some driven out of the U.S. Navy, are credited with defending their membership from gay-baiting and harassment. Gay men were also elected to leadership positions in the MCS (Hunt, 1999, chap. 4). Harry Hay was an organizer for the Department Store Workers Union in New York City. He founded what is believed to be the first gay rights organization in the U.S., called the Mattachine Society. According to Hay, “The first five members of the Mattachine Society were all union members experienced in working in underground unions” (Hunt, 1999, chap. 4).

What little openness about homosexuality existed in the 1930's and early 1940's quickly dissipated with the advent of a wave of anti-communist fervor in the late 1940's and early 1950's. Spurred on by right-wing Senator Joseph McCarthy and ironically, his gay chief of staff Roy Cohn, Congressional inquiries into left wing unions caused many gay activists to retreat underground (Hunt, 1999, chap. 4). Although they might be considered closeted by today's standards, there were in fact several noteworthy gay leaders who surfaced in the late 1950's and 1960's. Bayard Rustin and Tom Kahn were prominent activists of the period. Rustin, a principle organizer of the 1963 March on Washington for Jobs and Civil Rights later became the first president of the A. Phillip Randolph Institute.³ Tom Kahn, was the speech writer and assistant to President George Meany of the AFL-CIO. Both of these men were known to be gay by many of those with whom they worked, including Dr. Martin Luther King, Jr. and Meany respectively (Hunt, 1999, chap. 4). In addition, another gay man, Bill Olwell of the Retail Clerk's Union in Seattle, was tapped in 1972 to become a Vice President of the United Food and Commercial Workers (UFCW), the successor union to the Retail Clerks (He later was elected to Executive Vice President in 1986) (Hunt, 1999, chap. 4). All three of these gay men occupied very influential positions in the labor movement during a period when it was not only uncommon, but dangerous to be a known homosexual. Despite their good reputations and the extraordinary work of these men on behalf of the labor movement, unions did not speak out for equal rights for their gay members until years later.

³APRI was created and funded by the AFL-CIO as its first constituency group for African Americans following the 1963 March on Washington. At that time it was focused on job creation, equal rights, and voter registration for minorities.

It was not until after the Stonewall riots⁴ in New York City in 1969 that the first public endorsement of gay rights by a union is believed to have occurred. In 1970, the Executive Council of the American Federation of Teachers (AFT) passed a resolution which stated, in part, that “the American Federation of Teachers protest any personnel actions taken against any teacher solely because he or she practices homosexual behavior in private life” (Hunt, 1999, chap. 4). In 1973, the National Education Association followed suit by adding sexual orientation to their nondiscrimination policy (Hunt, 1999, chap. 4).

The two movements, Labor and Gay Rights, have been slowly marching toward common ground ever since. Not surprisingly, it was the convergence of gay and worker issues that gave rise to the first open alliances between these two movements. Two such issues figured prominently in the history of both movements. The Coors beer boycott was introduced to leaders of San Francisco’s gay community in 1974 by Allan Baird and Andy Ciraelis, heterosexual Teamster representatives (Hunt, 1999, chap. 4). Two of those gay leaders were Howard Wallace, a union activist, and Harvey Milk, a political activist in the emerging gay community centered in the Castro District of the city (Milk later was elected as the first openly gay member of the San Francisco Board of Supervisors)(Hunt, 1999, chap. 4). The appeal of the boycott was obvious. As part of its anti-union campaign, Coors administered lie detector tests to prospective employees. Among questions intended to weed out “undesirables,” Coors asked applicants about

⁴The Stonewall riots of 1969 occurred after New York City police were accused of harassing gay patrons of the Stonewall Tavern. The protests that followed are widely accepted as the beginning of the modern gay liberation movement.

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their union support and their sexual orientation. However, despite some previous support offered by the gay community on union issues, both Wallace and Milk felt labor had not reciprocated, at least not openly. Baird had no problem embracing the gay community. Being a Castro resident himself, and seeing first hand how the gay bars in the District were used as a safe environment for networking and socializing, he recognized the potential for a significant impact on the boycott effort if gays came to see the fight as their own. What Wallace and Milk proposed, in exchange for the support and organizing efforts of gay activists for the boycott, was that the Teamsters agree to promote the hiring of openly gay truck drivers. Baird and Ciraelis agreed. The gay boycott of Coors took off. San Francisco was considered the gay Mecca of the West Coast and the boycott was picked up by gay activists all across the state and eventually the whole country. The collaboration on the Coors boycott proved to be very successful. Coors' 43 percent share of the California market alone dropped to 14 percent and they ultimately dropped their offensive questioning of applicants as a result (Hunt, 1999, chap. 4).

The second public issue that joined the gay and labor movements arose in 1978. A ballot initiative was then introduced in California which was commonly referred to as the Briggs Initiative (Briggs). This initiative represented a direct attack on California's gay teachers. If passed, Briggs would have banned gays from being hired, and would have caused the firing of gay teachers already on the job. This assault on fundamental employment rights transcended the widespread homophobia of union leaders and members alike. Consequently, a coalition of gays and union activists emerged to campaign against Briggs (Hunt, 1999, chap. 5). Again, the

alliance proved successful. Briggs was soundly defeated by the California electorate. Later, at the height of AIDS hysteria, gays and Labor came together in 1986 to defeat another California ballot initiative (Proposition 64) sponsored by ultra-conservative, political gadfly Lyndon LaRouche. This initiative would have required the disclosure and quarantining of people with AIDS. Although these electoral fights all took place in California, they provided a model for gay/labor political collaborations across the country (Hunt, 1999, chap. 5).

The following year, the Fifteenth Constitutional Convention of the AFL-CIO unanimously adopted two resolutions, the first calling for the enactment of legislation banning discrimination based on sexual orientation. John Sweeney, currently the President of the AFL-CIO, recently wrote about that resolution: “The resolution was something of a landmark, a declaration of the labor movement’s support for a group of workers whose identity and particular concerns had never been acknowledged before” (Sweeney, 1999). In 1983, Sweeney was President of the Service Employees International Union (SEIU), the union that sponsored the resolution. The second resolution, passed at the 1983 AFL-CIO convention called for federal funding for research to determine the cause of AIDS (acquired immuno-deficiency syndrome) (Hunt, 1999, chap. 4). This resolution was a reflection of the fact that the growing AIDS epidemic had changed much of the debate on sexual orientation discrimination. Many activists were forced to shift their focus to literally surviving the disease. Medical research was desperately needed as were protections for medical insurance coverage. The conservative Administration of President Ronald Reagan was not only slow to respond to the emerging health

crisis posed by AIDS, but, in many instances, also dismissed AIDS as a “gay” disease with its roots in immoral behavior. The discrimination faced by gays took a dangerous turn for the worse. Considering the fact that the United States is one of the few industrialized countries in the world which does not provide comprehensive healthcare for its citizens, it is no wonder that the struggle for domestic partner health care coverage became a focal point of the gay rights movement here.

In the ensuing years, gay union members formed informal networks both inside and outside of their own unions (Frank & Holcomb, 1990). In June 1994, gay union activists and their allies came together in New York City to celebrate the twenty-fifth anniversary of the Stonewall riots. These activists included Desma Holcomb and Miriam Frank, domestic partners who wrote a booklet in 1990 which was titled *Pride at Work: Organizing for Lesbian and Gay Rights in Unions*⁵. The group decided to adopt the name from the booklet and Pride At Work, the organization, was founded. Three years later, after sometimes intensely emotional lobbying, the AFL-CIO recognized Pride At Work as an official constituency group⁶ (Hunt, 1999, chap. 5). Even with this formal recognition, it was not until 1999 that Pride At Work received funding from the AFL-CIO. It now has a national office in Washington, DC at the AFL-CIO headquarters.

⁵ Frank, M., & Holcomb, D., (1990). *Pride At Work: Organizing for Lesbian and Gay Rights in Unions*, New York, NY, Lesbian and Gay Labor Network

⁶Pride At Work was officially recognized by the AFL-CIO in 1997 as its newest constituency group representing lesbian, gay, bisexual, and transgendered workers.

The Need for Domestic Partner Benefits

Economic considerations for gay workers intensified as medical expenses for those infected with HIV and AIDS began to ravage the gay community in the mid-1980's. Gay employees were devastated to learn that when their sick and dying partners were hospitalized, not only were their benefits useless to them, but in many cases, employers refused them time to attend to their partners (Hunt, 1999, chap. 6). Even some hospitals would turn away domestic partners as non-family members.

In 1984, SEIU convention delegates passed a breakthrough resolution addressing domestic partner benefits (DPB's).⁷ The resolution stated that the union, "strongly supports the negotiation into union contracts of specific provisions prohibiting discrimination based on sexual orientation, including access to health coverage, health insurance, disability benefits, etc." With this resolution, SEIU formally recognized that domestic partner issues are not just for gay workers, but a wide variety of workers. For example, a heterosexual widow would lose her only source of income, a monthly Social Security survivor's check, if she remarried. Consequently, she had a strong financial disincentive to remarry. But if she had a domestic partner who died four years later, the woman would not be eligible to receive a widows' pension from her deceased partner's union pension plan (Frank & Holcomb, 1990). She would be plunged back into poverty. As another example, a permanently disabled union carpenter may have been living

⁷The 1984 SEIU Resolution #67 entitled Resolutions in Support of Full Human Rights for Lesbians and Gay Men. (From proceedings of the 1984 SEIU convention)

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on Supplemental Security Income (SSI), a means-tested federal benefit for disabled workers. If he married his employed girlfriend, her income would have made him ineligible for SSI. He would thereby lose his one source of independent income and his girlfriend would have to support them both on her single income. To further compound this couple's dilemma, if they did not marry, she would not be eligible for any widow's benefit from his union pension fund upon his death (Frank & Holcomb, 1990). There are many such examples to illustrate the point that critical financial needs compel many individuals, gay and heterosexual, to form domestic partnerships instead of legally-sanctioned marriage arrangements.

The U.S. Census reported a fivefold increase in the number of unmarried couples from 1970 to 1990 (Hunt, 1999, chap.6). According to the report, 75% of families fell outside the traditional definition of a family as including a married, opposite-sex couple with children under 18 years of age. Of the 4.5 million unmarried couples reported, one-third of these were of the same-sex (Kohn, 1998). There is no evidence that this trend will reverse itself.

Change in the workplace did not come quickly enough to keep pace with the changes being experienced in the American family unit. The Human Rights Campaign, the nation's largest gay rights organization, reports that married couples with children constituted almost three-quarters of all U.S. households in 1960. Today, that figure comprises only half of all households (Human Rights Campaign [HRC], 2000). Many of these newer, so-called "non-traditional" households include domestic partners comprised of both same-sex and opposite-sex couples. Not surprisingly, the demand for DPB's began to rise. According to a report published

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by the International Society of Certified Employee Benefit Specialists (CEBS) in 1995, there were just over 200 entities offering DPB's in the United States at that time. The CEBS conducted a survey among their membership which generated 459 responses. The results were reported in their May 1995 newsletter entitled *CENSUS*. The report suggests that as early as 1980, DPB's offered by private employers were not unusual: "Domestic partner benefits is not a new or even 'hot' topic. In the private sector, the pioneer employers addressed this issue almost 15 years ago, and fanfare surrounding the first public plans to provide domestic partner benefits has long quieted down." This optimistic statement was interesting, but far from reality. More than 40% of the CEBS survey respondents offered lengthy comments indicating that the topic of DPB's, even after 15 years, was still the stuff of lively debate. Two of the published comments demonstrated the divide in opinion which was still very apparent: "This issue is but one which exemplifies the continuing disintegration of the moral fiber of the nation." In contrast, another respondent wrote, "Assuming benefits are wages/deferred compensation, there is no reason to discriminate . . . on the basis of marital status since no such differential would be conscionable with respect to direct compensation."

In 1997, the Society for Human Resource Management (SHRM) published a report and analysis of their *1996 Domestic Partner Benefits Mini-Survey*. This survey elicited responses from 777 human resource professionals. Approximately nine out of ten respondents indicated their organization did not offer DPB's. Respondents from organizations with more than 250 employees were less likely to say their employees had no interest in the benefits than those with

250 or less. In both cases, over half said lack of employee interest was the primary reason they did not offer DPB's.

If the above survey results predict similar attitudes on the part of union employers, the inference arises that employees simply are not interested in DPB's. The inference, however, is not justified since neither the CEBS or the SHRM surveys asked respondents if their organizations had a non-discrimination policy. Therefore, the surveys offer no insight into the issue of employee anxiety about discrimination on the basis of sexual orientation as a result of inquiring about DPB's. However, the SHRM survey did reveal another reason why some employees with domestic partners might not request DPB's. Forty-nine percent of the respondents indicated that the taxation of DPB's was a significant disincentive to their employees. Current tax code regulations require that the cost of benefits for domestic partners who do not qualify as "dependants" must be taxed as income for the employee⁸ (National Lesbian and Gay Lawyers Association [NLGLA], 1999).

Gay people are still denied the freedom to legally marry in every state in the nation. For them, DPB's remain one of the only avenues for obtaining some of the legal and economic benefits afforded to those in married relationships. Some state legislatures have attempted to address this concern by passing legislation that establishes state or local recognition of domestic

⁸The Internal Revenue Service (IRS) requires that the employee pay income taxes on the "fair market value" of the portion of the premium for the domestic partner's coverage that is paid by the employer. The IRS has not defined fair market value, but it is generally interpreted to mean the difference between the cost of single coverage and that for domestic partner coverage, less any amount paid by the employee.

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partnerships. According to the American Federation of State, County, and Municipal Employees Union (AFSCME), as of November 1999 approximately 64 states and municipalities have passed domestic partnership laws. The legislation may include a registration procedure for domestic partners, health insurance, hospital visitation rights, and the right to make decisions about a deceased partner's remains. Unfortunately, in many jurisdictions legislation or court actions have been introduced to prevent or reverse these types of benefits from being received by domestic partners, both gay and heterosexual (Lambda Legal Defense and Education Fund [Lambda], 2000).⁹ In the meantime, a national political solution on DPB's seems unlikely. Workers with domestic partners will continue to have to fight for benefits employer by employer, community by community, and state by state.

Recognizing the changes in the demographics of the American family and responding to the growing needs of their membership for concerted action to gain DPB's, the AFL-CIO adopted a resolution in 1991 entitled "Benefits for Changing Families." The final paragraph of the resolution reads as follows: "Resolved: That the AFL-CIO will work as appropriate to insure that fringe benefits are extended to all persons living in a household as a family" (Kohn, 1998).

⁹According to the Lambda Legal Defense and Education Fund, there have been legal battles to retain DPB's in Chicago, Atlanta, Seattle, New York City, and others.

Mixed Messages

Notwithstanding the public statements, resolutions, and non-discrimination policies adopted by the AFL-CIO, its affiliates, and other union organizations, there still remains an apparent willingness to deny their own gay and non-married employees equal benefits on the job. The fact that Labor was virtually silent during the 1996 Congressional debates on the so-called Defense Of Marriage Act (DOMA)¹⁰ may offer some clues as to why so many unions are still struggling with DPB's.¹¹

A fierce national debate was ignited in 1993 when Hawai'i's Supreme Court ruled that the state's refusal to grant marriage licenses to same-sex couples was sex discrimination (Hunt, 1999, chap. 7). The case was returned to the lower circuit court with an order for the state to prove that there was a "compelling state interest" for such discrimination. As the state was wrapping up its case in 1996, Congressional conservatives began to panic and Georgia Republican Bob Barr introduced DOMA in the House of Representatives. Ironically, Barr had been divorced twice. The legislation was intended to provide a vehicle for states to legally refuse recognition of gay marriages should they become legal in Hawai'i or elsewhere. DOMA also

¹⁰The Defense Of Marriage Act (DOMA) mandates that in determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word "marriage" means only a legal union between one man and one woman as husband and wife. Also included in DOMA is a "federal neutrality" provision addressing interstate recognition of same-sex marriages.

¹¹Sources inside the AFL-CIO, Pride At Work, and the Human Rights Campaign are unaware of any union which took a public position either for or against DOMA.

established a standard definition of “marriage” and “spouse” to ensure that federal agencies interpreted these terms in the same narrow way. It moved rapidly and passed in September 1996 with overwhelming majorities in both houses with the help of some notable liberals including Senators Paul Wellstone of Wisconsin and Bill Bradley of New Jersey, as well as President Bill Clinton. Three months later, on December 3, 1996 Hawai'i's Circuit Court ruled in *Baehr v. Miike* that the state failed to justify its denial of marriage licences to same-sex couples (Lambda, 2000). While appeals delayed the enforcement of the Court's ruling, opponents launched a massive effort to change the state constitution to restrict marriage to opposite-sex couples and successfully rendered the Court's decision moot (Lambda, 2000). Labor remained quietly on the sidelines (Hunt, 1999, chap. 7).

In an incisive commentary on the issue of gay marriage, Wendy Kaminer wrote, “A . . . sobering example of homophobia is the mainstream and liberal opposition to gay marriage” (Kaminer, 2000).¹² Could same-sex marriage be the line that Labor won't cross? And if so, could this be part of the rationalization to maintain certain discriminatory benefit policies? If unions believe gays should not marry, it follows that they would not support granting to gays the financial benefits of marriage. At the very least, any justifications for denying gays an equal opportunity to marry consigns gays to less than equal status compared to their heterosexual counterparts. Once this is established as a mind set, it is easy to extend the rationale to deny equal treatment in other areas, including employment benefits.

¹²Wendy Kaminer is Senior Correspondent for The American Prospect magazine.

President Sweeney proclaimed, “We must make domestic partner benefits a higher bargaining priority. And we must effectively use our bargaining power to fight for income equality” (Sweeney, 1999). Gay workers should question why Sweeney and other labor leaders have not applied the same standard to themselves when they sit on the management side of the bargaining table. Are same-sex partners, who are currently prohibited by law from civil marriage, any less deserving of support than their legally married counterparts? After all, gay people do form loving relationships with all the same joys and obstacles faced by those who can or choose to marry. These are fair questions to ask when most labor organizations, including those led by Mr. Sweeney (SEIU and AFL-CIO), do not offer their own employees fully equal DPB’s to this day.

Table 1 below illustrates which of the most commonly requested DPB’s are offered to employees by these union employers. With few exceptions, most of these organizations do offer some form of DPB’s. Conspicuously missing from most of the benefit offerings however, are pensions. Pension benefits appear to be the last frontier in the quest for equality in benefit coverage for domestic partners.

The information provided in Table 1 was gathered from survey responses and interviews with benefit administrators and/or employee representatives at the unions listed. Further information about the methodology used to gather this data is found on pages 27-28.

Table 1¹³

Employer	Medical	Dental	Vision	Drugs	Leaves	Pension
AFL-CIO	✓	✓	✓	✓	✓	
AFA	✓	✓	✓	✓	✓	
AFGE						
AFSCME*	✓				✓	
AFT	✓	✓			✓	✓
CWA	✓	✓	✓	✓	✓	
HERE	✓	✓	✓	✓	✓	✓
IBT					✓	
LIUNA					✓	
NEA	✓	✓	✓	✓	✓	✓
NTEU**	✓	✓		✓	✓	
OPEIU	✓	✓	✓	✓	✓	✓
SEIU	✓	✓	✓	✓	✓	
UFCW	✓	✓	✓	✓	✓	✓
UNITE	✓	✓	✓	✓	✓	

* AFSCME does not directly offer benefits but does provide a maximum reimbursement for employees who purchase a qualified medical plan. The plan selected is the employee's choice and may or may not include dental, vision or prescription drugs. Cost of the plans vary based on the benefits included.

** NTEU recognizes domestic partners as "spouses" for the application of all benefits offered. They do not offer vision or pension benefits to any employees at this time.

See **Table 2** on page 31 for a list of the full names of the employers listed above.

¹³Table 1: Many unions did not respond to the survey which was mailed to them. Several that were contacted by telephone would not divulge benefit policies over the phone. A sample of the survey used to gather this data is attached as Appendix A on page 32.

Echoing their corporate counterparts, several survey respondents claim that their hands have been tied by government regulations which define the term spouse in a way that precludes them from providing pension benefits to employees' domestic partners.¹⁴ Although the Internal Revenue Code does have certain restrictions for pension plans which rely on eligibility requirements for "spouses," pension plans can be changed for broader inclusion. One such option, championed by the Office and Professional Employees International Union (OPEIU) Local 3 in San Francisco, is the contingent annuitant option.¹⁵ Adding this option to pension plans is a simple and effective way to add a voluntary option for employees to designate their partner (or whomever they choose) to receive their annuity benefit in the event of their death (Pride At Work, 1999).

Another option available is the conversion of the pension plan to a cash balance account (CBA) plan. CBA's work in much the same way as the more familiar 401(k) plans with the exception that no employee contributions are allowed. CBA's provide employees with accumulated, pre-tax, retirement savings from guaranteed, defined employer contributions plus the interest accrued (NLGLA, 1999). The accounts are held in trust for the employee by the pension fund, however, vested employees are entitled to the accumulated savings upon their

¹⁴The term "spouse" has been used to exclude anyone who was not legally married under state law. As explained at n. 10, in 1996, DOMA explicitly defined the term for all federal agencies as a legal marriage between one man and one woman.

¹⁵This pension option can be exactly the same as that for married persons. It provides a reduced monthly pension for life and, upon the death of the eligible employee, provides the designated beneficiary with a lifetime monthly benefit. The benefit is usually 50% of the amount of the reduced monthly benefits otherwise payable to the employee. Unlike married persons, non-married employees must select this option prior to retirement or death for their domestic partner to receive benefits from the fund.

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death or leaving the job for any reason. Because the plan provides a mechanism to set up individual employee accounts, the employee has a right to designate a beneficiary for the full balance.

What has been frustrating for many DPB activists is the reluctance of their unions to acknowledge the inequity of their current pension plans and forthrightly explore alternative options such as these.

A Case Study

The Communications Workers of America (CWA) is generally considered a progressive but mainstream union. Although some individual employees had been informally requesting DPB's since as early as 1994, it wasn't until February 1997 that CWA agreed to offer medical coverage to the domestic partners of its employees. The offer was made to employee unions and was limited to same-sex partners only. Each union representing CWA employees put the proposal to a vote among its members. Surprisingly, members of the two largest unions, the CWA Staff Union and OPEIU Local 2, turned down the addition of this new benefit. According to officers in both unions, the proposal was rejected largely on the basis that offering the benefit only to same-sex partners would discriminate against unmarried opposite-sex couples.

Later that same year, at CWA's June 1997 convention, delegates overwhelmingly approved a convention report which called on the union to negotiate DPB's with all its members' employers and denounced the denial of DPB's for all employees as a form of sexual orientation discrimination and marital status discrimination.¹⁶ Although the resolution did not directly address CWA's employment practices, the message from the delegates seemed clear: "Providing benefits to only the spouses of heterosexual employees is both sexual orientation discrimination and marital status discrimination" (Communications Workers of America, 1997). With that extra push from the delegates and their recently acquired sensitivity to their own employee concerns,

¹⁶CWA's Women's Committee report to the 59th Annual Convention (1997).

CWA successfully negotiated DPB's with most of its major employers in the telecommunications industry in 1998.

During the next round of contract negotiations with its own employees' unions in 1998, CWA agreed to "include Domestic Partners benefits for employees regardless of partners' gender in its health care coverage" (CWA Staff Union, 1998). However, many employees were surprised to discover that despite the fact that several other benefits were listed under the Health Care section of the contract, CWA interpreted this to mean basic medical care only. Prescription drugs, vision care, and dental care were not included in the package offered for domestic partners. Vague arguments about excessive costs were offered by CWA as reasons why other benefits should not be extended. Employee union negotiators were content with their win on the inclusion of benefits for opposite-sex partners. They were unprepared or unwilling to pursue a full range of benefits for domestic partners and recommended ratification of the new contracts.

Several attempts by delegates to CWA conventions to include a sexual orientation non-discrimination clause in the union's constitution failed during the 1980's and 1990's.¹⁷ Some officers of the union consistently maintained that the constitutional protections in place already were broad enough, and discrimination based on sexual orientation would not be tolerated in CWA. Then, in February 1999, the CWA Executive Board adopted a much more comprehensive

¹⁷CWA Constitution, (amended June 1997) Article V - Membership, Section (d): "No person, otherwise eligible for membership, shall be denied membership in the union because of sex, race, color, creed or nationality."

non-discrimination policy which specifically included sexual orientation and marital status.¹⁸

However, the policy included the phrase, “. . . neither the Company nor the Union will unlawfully discriminate . . .” (emphasis added). This left open the loophole for legal discrimination based on sexual orientation which is permitted in many parts of the country today. Currently, 154 state and local jurisdictions prohibit some forms of sexual orientation discrimination (Lambda, 2000). However, only eleven states prohibit such discrimination in both public and private employment.¹⁹ Five other states prohibit this form of discrimination in state public employment by way of executive orders.²⁰ The federal government has also prohibited sexual orientation discrimination in federal employment since 1998.

In December 1999, a small group of CWA employee activists, frustrated with the apparent contradictions in CWA policies, began organizing an effort to have all the unions representing CWA employees make a midterm demand for equal benefits for domestic partners.²¹

¹⁸CWA Executive Board Policy On Discrimination, (adopted February 13, 1999) Section 2. “In restating our policy for conduct within our Union, it is equally important that our employers reflect this policy so that neither the Company nor the Union shall unlawfully discriminate against a person on account of race, color, sex, religion, age marital/parental status, sexual orientation, national origin, or because a person is handicapped, or a veteran of military service. This means what it says: ‘No Discrimination.’ ”

¹⁹These states are: California, Connecticut, Hawai’i, Massachusetts, Minnesota, Nevada, New Hampshire, New Jersey, Rhode Island, Vermont, and Wisconsin. The state of Maine had protected gays and lesbians from discrimination in employment, but that law was repealed in 1998 (Lambda, 2000).

²⁰These states are: Maryland, New Mexico, New York, Pennsylvania, and Washington. Ohio had protected gay state employees via executive order, but this was rewritten in June of 1999 to exclude gay state employees. Moreover, Louisiana’s executive order expired in 1996 (Lambda, 2000).

²¹Approximately 15 CWA employees at its headquarters in Washington, DC had formed an informal internal network called the Gay and Lesbian Employees Club (GLE Club). As a result of their efforts to add additional benefits, they founded a national caucus of CWA activists called CWA POWER (CWA People Organizing for Workers’ Equal Rights) in February 2000.

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Four of the largest unions agreed to send a formal letter of demand to CWA. Pride At Work also sent a letter of support to CWA President Morton Bahr. At their February 2000 meeting, the CWA Executive Board agreed to add all the remaining benefits being offered to married employees to the list of DPB's, with the major exception of pensions. Once again, the reasons offered for not adding the pension benefits were vague at best.

The struggle for equal benefits continues at CWA.

Considerations for Moving Towards Equality

Unions that overcome their own institutional homophobia will recognize that denying equal benefits to employees is not only unfair and discriminatory, but it is harmful to the labor movement as a whole. Gay workers who cannot look to unions for safe haven and equal treatment as employees should not be expected to embrace unions when given the opportunity. Too often, gay workers have been disaffected by the painfully slow march to justice in the workplace and have instead, devoted much of their energy to organizing for political solutions outside the workplace.

Unions that embrace their gay and non-married employees, recognize their rights, and treat them as equals among their peers will find loyal activists whose struggle they see as being in common with the broader labor community. Conversely, unions that continue to demonstrate behaviors which discriminate against their gay and non-married employees risk alienating their employees and ultimately, their members. Gay workers are far less likely today to remain silent about their desire for equal treatment on the job than they may have been in the past. More and more states and municipalities have made it illegal to deny employment or housing on the basis of sexual orientation (Lambda, 2000). Coupled with an increasing number of clear and unambiguous non-discrimination clauses in contracts and employment policies, gay workers are less fearful than ever before about being open with their sexual orientation and their demands for DPB's (HRC, 2000). Unions must consider more than minor budgetary costs when responding

to these demands (Kohn, 1998).²²

There are also external considerations for those unions engaged in organizing. Most union organizers will confirm that hostile employers will attempt to exploit any weakness in the union's record of negotiating improved wages and benefits for their current members. It should also be expected that these same employers will exploit a union's discriminatory policies toward their own employees and members. Unions that hope to successfully organize new workers are well-advised to be prepared to demonstrate and defend their own employment and benefit policies.

Despite their stated good intentions and public advocacy of equal rights for all workers, unions are still discriminating against their own employees and, by extension, their own members. This assertion will not be a comfortable one for many labor loyalists. However, the facts speak for themselves. Unions must come to grips with their own institutional homophobia and end discriminatory benefit practices. The good news is that there is help available among their own ranks. The addition of Pride At Work as an official constituency group of the AFL-CIO bodes well for the labor movement. Pride At Work members have helped to shed new light on the issues confronting gay workers. Their programs to educate union leaders and rank and file members about the gay community coupled with educating the gay community about the mission

²²The accruing costs of DPB's are the same as for adding spouses of married employees. Costs range from 0.96 to 1.06 percent of total health care costs based on enrollment averages. According to a 1992 Stamford University study, domestic partner enrollment ranges from 0.5 to 2.5 percent with most enrollments under 2.0 percent.

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and goals of the labor movement promises to break new ground for us all. And, the critical work of gay caucuses within their own unions continues to push their organizations to confront and eradicate discrimination and homophobia from within (Hunt, 1999, chap. 5).

Conclusion

Domestic partner benefits are just a piece of the puzzle. There are still discriminatory taxation policies in place which have rendered DPB's a burden for those who need them most. The fear of being fired, evicted from their home, or even arrested for being gay in many states is a stark reality for thousands of gay people (NLGLA, 1999).²³ Negative stereotyping and hateful condemnations from right-wing politicians and conservative religious leaders continue to foster a climate of violence toward gays worldwide. All these issues cry out for redress.

There is certainly much to do before gay people achieve equality at home and in the workplace. However, at the core of the labor movement is its struggle for economic justice. Economic justice and social equality are inextricably linked. The American labor movement has a moral imperative to pursue economic equality for all its members and indeed, for all workers. Until equal compensation is achieved in all workplaces for gay people, women, ethnic minorities, and persons with disabilities, economic justice will not be realized. Unions should be able to say to any employer, either public or private, "We demand the employment practices for our members that we model ourselves." Only then will gay union activists be able to focus their full attention on labor's external enemies. Until such a time, gay and non-married union members must be the facilitators of Labor's evolution toward being a movement for all workers.

²³As of August, 1999 there were still 16 states with sodomy laws which prohibit and criminalize oral and/or anal sex between consenting adults.

Notes:

Finding very little literature or research on this specific topic, I have employed the interpretive method based on secondary data analysis. Some of the material for this study was gathered from a benefit survey which I designed (Appendix A) and follow-up interviews with the respondents. Review of the analyses of two surveys conducted by professional benefits organizations proved useful as well. Personal interviews with union leaders, gay activists and union employees provided the most valuable insights into the culture of certain unions. I was also privileged to review documents recording convention proceedings of the AFL-CIO as well as the proceedings of CWA and the CWA Staff Union.

I attempted to survey a variety of union organizations which represented the diversity within the labor movement. Twenty-one unions and labor organizations were selected based on certain demographic information including staff size, membership size, and sector represented. In addition to AFL-CIO affiliates, non-affiliated unions were targeted as well as a prominent union insurer. Surveys were mailed to organizations representing primarily public sector, private sector, skilled trades, service, professional workers, and some representing a variety of sectors. Staff size ranged from approximately 20 to more than 500. Membership size ranged from none, such as the AFL-CIO, to more than one million, such as AFSCME and IBT.

Many union benefit administrators did not return the survey sent to them, nor would

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several of them discuss benefit offerings in follow-up phone calls. Telephone calls were made to each of the union benefit administrators who did not return a survey. In most cases, the survey information was provided over the phone. In others, calls were not returned and no contact was made. With the assistance of Pride At Work, I was able to contact several union employee representatives who were willing to provide the information requested.

I respect the confidentiality of those who do not wish to have themselves or their union identified. For this reason, I have not provided the names of any respondents here. Further, no inferences are implied nor should they be drawn from the absence of any union organization in Table 1.

I would like to offer my sincere thanks to the many members of Pride At Work who assisted and encouraged me in my research. Special thanks are owed to Nancy Wohlforth of OPEIU Local 3 and National Co-Chair of Pride At Work, Paul Gordon of the AFL-CIO, Jay Pascucci of UFCW, Susan Lander and Pearl Smith of AFSCME, Daryl Herrschaft of the Human Rights Campaign (SEIU member), and Beth Deprospero-Bolanger of the AFA Staff Union. And to Harold “Jack” Jackson, my life partner, inspiration, and editor-in-chief all my love.

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Table 2. Abbreviations for Union Organizations

Abbreviation	Full name of organization
AFL-CIO	American Federation of Labor - Congress of Industrial Organizations
AFA	Association of Flight Attendants
AFGE	American Federation of Government Employees
AFT	American Federation of Teachers
AFSCME	American Federation of State, County, and Municipal Employees
CWA	Communications Workers of America
HERE	Hotel Employees and Restaurant Employees
IBT	International Brotherhood of Teamsters
LIUNA	Laborers International Union of North America
NEA	National Education Association
NTEU	National Treasury Employee's Union
OPEIU	Office of Professional Employees International Union
SEIU	Service Employees International Union
UFCW	United Food and Commercial Workers Union
UNITE	Union of Needletrades, Industrial and Textile Employees

Appendix A

Dear Union Human Resources Director:

Thank you for agreeing to complete this survey. If you or your union do not wish to be identified in the final report, please indicate such in the appropriate section on the back of this survey.

1. Does your employee benefit plan cover same sex domestic partners? Y ____ N ____

A. If yes, which benefits are covered, and when were they first implemented? (Please mark N/A for those benefits not offered to the domestic partners of employees.)

<input type="checkbox"/> Medical	Date implemented: _____
<input type="checkbox"/> Prescriptions	Date implemented: _____
<input type="checkbox"/> Dental	Date implemented: _____
<input type="checkbox"/> Vision	Date implemented: _____
<input type="checkbox"/> Pension	Date implemented: _____
<input type="checkbox"/> Bereavement	Date implemented: _____

B. Does your employee benefit plan cover opposite sex domestic partners? Y ____ N ____

C. How many union employees currently have enrolled domestic partners? _____

2. Does your union have a non-discrimination policy which specifically includes any of the following categories? (Please mark all that apply.)

<input type="checkbox"/> Marital status
<input type="checkbox"/> Sexual orientation
<input type="checkbox"/> Sexual identity
<input type="checkbox"/> Gender identity
<input type="checkbox"/> Gender expression

3. Does your union have any training programs or materials which specifically address discrimination based on sexual orientation? Y ____ N ____

If yes, who is the intended audience? (Please mark all that apply)

<input type="checkbox"/> Union officers
<input type="checkbox"/> Union staff
<input type="checkbox"/> Local officers
<input type="checkbox"/> Stewards
<input type="checkbox"/> Members
<input type="checkbox"/> Employers

4. Are you aware of any collective bargaining agreements held by your union or its Locals which include benefits for the domestic partners of members? Y ____ N ____

If yes, how many? 1 - 5 ____ 6 - 10 ____ 11-15 ____ 16 or more ____ Don't know ____

Appendix A

Union Benefits Survey
page 2

5. Does your union support efforts to strengthen the civil rights of gay, lesbian, bisexual, and transgender people in other ways? If yes, please explain: (example: political action, affirmative action, organizational grants, etc.)

Your name: (optional) _____

Title: (optional) _____

Union: (optional) _____

Which industries or sectors does your union represent (or which are they most closely identified with?)

Total number of workers represented by your union:

May I identify you or your union in the final report? Y _____ N _____

If no, all data collected will remain strictly confidential.

Thank you, once again, for your assistance with this project. If you have any questions regarding this survey or its intended use, please don't hesitate to contact me at 202-434-1285 or tsantora@cwa-union.org.

In unity,

T Santora
National Co-President
Pride At Work, AFL-CIO