A Report of
THE SPOUSAL EQUIVALENCY TASK FORCE
August 20, 1990

Task Force Members

Bobbie Bauwin
Director, Bradley, Patterson & Siebert Halls
Residence & Dining Halls

Don Miller
Professor of Nuclear and Mechanical Engineering
1075 Robinson Lab

Daniel Christie
Associate Professor of Psychology
OSU Marion Campus

Becky Parker
Associate Director Residence and Dining Halls

Mary Margaret Fonow
Assistant Director Center for Women's Studies

Beverly Toomey
Professor of Social Work

Joe Havlicek, Jr.
Professor of Agricultural Economics and Rural Sociology

Nancy Zimpher, Chair
Spouse Equivalency Task Force
Associate Professor of Educational Policy and Leadership

Susan Josephs
Associate Professor of Labor Education and Research Service

Ex Officio Members:

Robbin Kirkland
Assistant Director, Education Services and Development University Hospitals

Steve Stoffel
Associate Vice President Personnel Services

Beverly Toomey
Professor of Social Work

Barbara Newman
Associate Provost Academic Affairs
In recent years, both the Faculty Compensation and Benefits Committee of the Senate and the Council on Affirmative Action at The Ohio State University recommended that the University consider extending benefits to employees with spouse equivalents. Thus, on January 31, 1990, President Jennings convened The Spousal Equivalency Task Force to study the effects of extending benefits to named partners of University faculty and staff members. The Task Force was charged to consider the political, social and financial implications of such a change and to provide information relative to: a) background issues that led to consideration of such a policy, b) precedents from other entities currently extending these benefits, c) the projected involvement and costs of such a policy, d) necessary administrative provisions for named partner benefits; and e) policy implications.

The Task Force reviewed each of these issues, as summarized below. The significant conclusion reached by the Task Force from this comprehensive study is that the key issue is one of fairness and equity. As universities nationally are beginning to consider domestic partner benefits, it is expected that such coverage will emanate from an extension of anti-discrimination policies. The Task Force believes that the example set by other employers who have extended the equity dimensions of their benefits programs through the addition of domestic partner benefits is one that we and other higher education institutions should emulate.

**Background Issues:** Contemporary demographics reflect a changing American family structure, wherein today only 27% of the nation's 91.1 million households fit the traditional definition of "family;" that is, two parents living with children. Rather, 2.6 million households constitute unmarried couples of the opposite sex and another 1.6 million of the same sex. These demographic shifts, more than any other single variable, have led employers to consider benefits packages which are accessible not only to legally married couples, as is typical for most benefits policies, but also to employees involved in alternative family structures.

**Precedents from Other Entities:** Efforts to make more equitable the distribution of employee benefits have been considered by states, municipalities, private businesses, and universities. Although formal action in the direction of named partner benefits is still somewhat limited, insurance analysts report that the general interest has been tremendous. As an outgrowth of anti-discrimination policies, numerous states are considering sick and bereavement leave with regard to unmarried employees who designate a named partner. Ohio's collective bargaining agreements already specify this option, and the state will soon consider recommendations from the Office of Administrative Services to extend health benefits to the named partners of its state employees. Four cities provide health benefits to named partners, including Berkeley, West Hollywood, Santa Cruz, and Seattle. Both East
Lansing, Michigan and Madison, Wisconsin extend sick and bereavement leave to employees with named partners, and are currently considering the health benefits extension. Numerous private agencies and professional associations are following suit, and both the University of Michigan and Rutgers University are considering recommendations from campus groups regarding health benefits for named partners.

Involvement, Costs and Potential Gains: Using demographic population projections and user histories from entities already extending named partner benefits, it is possible to project estimated usage at Ohio State. Census statistics cited above show a national population of 8.4 million adults living in some form of domestic partner arrangement. Statistics on the population of persons eighteen years old and over calculate the total population of the U.S. as 173.7 million. Accordingly, 8.4 million unmarried couples translates to 4.8% of the total population. Data collected from entities extending named partner benefits reflect an enrollment range of 2% to 7.5% from among those eligible to enroll. One further variable which figures into the formula is the cost for medical and dental benefits for an individual employee currently covered by the OSU benefits policies. This figure is $1,120.00 per person. Using the low end of user enrollment, costs for 2% enrollment would be $358,618; and for 7.5% enrollment, $1,344,816.

Administrative Issues: Every known health plan covering domestic partners has a registration mechanism, which has to date successfully contained any abuse in the system. The registration process typically requires filing an "affidavit of domestic partnership," certifying that the individuals share the same regular and permanent residence, have a close personal relationship, and are economically interdependent; are not married to anyone, are each 18 years of age or older, not related by blood closer than would bar marriage in the state; were mentally competent to consent to contract when their domestic partnership began, are each other's sole domestic partner and responsible for their common welfare, and have terminated any prior domestic partnership at least 90 days prior to filing the affidavit.

Policy Implications: Extending benefits to domestic partners reflects several important policy implications. First, inquiries into named partner status have already emanated from two University committees concerned about the inequity of extending certain benefits to one segment of our employee population (married couples) that are not accessible to another segment of our employee population (unmarried couples). The second issue revolves around the cost implications of such a policy shift, which according to the cost records of entities currently extending this benefit are projected to be less than 1% of OSU's annual benefits expenditures. And third, the administration of named partner benefits is most effective when entities implement an affidavit procedure for designating domestic partnerships.
A Report of
THE SPOUSAL EQUIVALENCY TASK FORCE

Formation of the Task Force

On January 31, 1990, President Jennings convened The Spousal Equivalency Task Force to study the effects of extending spousal benefits to named partners of University faculty and staff members. Recently, the Faculty Compensation and Benefits Committee of the Faculty Senate (1989) and the Affirmative Action Council (1985) both proposed this policy change. Further, the Planning Committee "Proposal for the Establishment of an Office for Gay, Lesbian and Bisexual Programming" (1987) echoed President Jennings' 1982 commitment to the "potential of persons who have not been the beneficiaries of all of society's privileges and opportunities," to underscore continued careful examination of equal opportunity for all individuals at The Ohio State University. Therefore the President determined that it would be important for a representative group of the University community to study "the political, social, and financial implications of such a change." Specifically, the charge to the Task Force was to:

1. Conduct research to determine how the University community would respond to spouse equivalent status, including research on how many of our single faculty and staff would claim a spouse equivalent;

2. Research the legal and economic impact of such a policy on the University with respect to benefits for spouse equivalents and their dependents, including for same sex partners;

3. Develop the legal and organizational documents necessary to implement such a policy; and

4. Design mechanisms needed to monitor and enforce such a policy.
At the initial meeting of the Task Force with the President, numerous
questions were raised about the issues that could potentially be associated
with such a policy. These questions ranged from inquiries about current
policy elsewhere (i.e., in other entities, such as other universities,
municipalities or businesses) where such a provision might be in place, to the
local impact of such a policy on the potential number of enrollees at Ohio
State and the concomitant costs of these new enrollments.

Ultimately, the Task Force organized its work around a series of
questions related to this charge, including: a) What are the background
issues that have led to consideration of spousal equivalency policies
generally? b) What precedents exist elsewhere that could inform local
policy? c) What would be the estimated involvement, costs and benefits, given
the provision of this new benefits option? and d) What would be the necessary
provisions for the administration of this new option?

The report provided herein answers both the charge given to the Task
Force by President Jennings and the inherent questions within that charge, as
outlined above. It closes with a brief discussion of the policy implications
of the Task Force report. The Task Force is indebted to Professor Rhonda
Rivera; in the OSU College of Law, and Robert Eblin, a student in the College
of Law, for the many resources they made available to us and for their
appearance before the Task Force, and to Mr. Elliot Fishman, Senior Staff
Counsel for the State of Ohio Department of Administrative Services, who was
an invaluable resource as well. Beyond a thorough review of the legal
documentation on domestic partnerships prepared by Mr. Eblin, the Task Force
evaluated papers and articles published in journals, newspapers and insurance
information services, and analyzed actual prototype practices from
institutions currently implementing domestic partner policies. These resources have greatly influenced the conclusions and recommendations in this report.

**Background Issues**

Family diversity is a fact of life in America. As the discussion which follows reveals, family structures are being reconfigured far beyond the traditional boundaries legally required for "marriage." While many of the issues surrounding this new demographic profile are beyond the charge of this Task Force, consideration of equal access to employees is directly related to our task. Thus we review shifts in family structure and question the continued reliance on marriage as an appropriate vehicle for determining access to employee benefits in the sections below.

**The Changing Family Structure**

A recent issue of *Academe* (1990) reminds us that for the past two decades, faculty members have labored to curtail unwarranted institutional interest in their private lives. Many faculty still at work today are aware, however, that the decade of the 90's brings new awarenesses; thus the line between public and private is not so easily drawn. Constituencies in higher education are more diverse than ever, and institutions that value such diversities must address the needs of these groups directly.

Many promising new faculty members find themselves in what ten or twenty years ago would have seemed radically untypical family situations, or bearing the burdens of unforeseen health risks and problems, or launching careers at nontraditional ages, or "pioneering" in fields from which they might once have been excluded. These people need neither neglect (however benign) nor discretion (however well intended), but the kinds of support that can only be collegially and institutionally mobilized. (Strohm, 1990:1)
Many shifts have occurred in the definitional attributes of the American family. A major one is at the economic level, wherein during the agricultural age, the family was an important economic unit and farm families tended to be more extensive. This has been much less true throughout the industrial age, and now shifts in the meaning of family in a more service-oriented economy remain uncalculated. It is the domain of the sociologist to be concerned with the changing definitions of family, as many see the family unit now more as a psychological unit than an economic one (Gutis, 1989). Transformations in family structure, including step-families, single-parent families, foster families and extended families are much more a part of the American fabric than even before.

The Federal Census Bureau reports that in 1988, 27% of the nation's 91.1 million households fit the traditional definition of a family, two parents living with children, down from 40% in 1970 (Gutis, 1989). This change may become more pervasive in that, for every 100 children born today: 12 will be born out of wedlock, 40 will be born to parents who will divorce before the child is 18, 5 will be born to parents who separate, 2 will be born to parents of whom one will die before the child is 18, and 41 will reach age 18 "normally" (State of Ohio Department of Education, 1988).

Benefits Magazine (1989) reported that 2.6 million households constitute unmarried couples of the opposite sex and approximately 1.6 million households of unmarried same sex couples. National census figures reflect a 700% increase in the number of unmarried couples from 1960 to 1970, and a jump of 300% from 1970 to 1980 (Los Angeles Task Force on Family Diversity, 1988). Kinsey reports estimate approximately 10% of the nation's population to be homosexual, or roughly 20 million or more individuals specifying this
preference (Berkeley Human Relations and Welfare Commission, 1984; Albanese, 1989). Further, there are an estimated 3 to 5 million lesbian and gay parents who have had children (Salholz, 1990).

This shift in identifiable family structures away from traditional lines raises many social questions. It causes some to speculate whether the traditional family, with its economic interdependence, is the foundation of a strong society? What are the advantages of legal recognition of family relationships through marriage? And, who should have access to this status? In an attempt to clarify the "murky statistics" of a changing family demography, the Census Bureau is making a major change in family categories for the decennial count in which we are now engaged. For the first time in the Census, couples living together will have the option to designate themselves as "unmarried partners" (Isaacson, 1989).

The Use of "Marriage" to Determine Employee Benefits

Typically, employee benefits have been distributed based on individual employment status and extensions granted to the employee's spouse and dependent(s). Many of the benefits contingent on marriage have substantial monetary values, including health and dental coverage, and pension benefits. Critics of this process for establishing access to benefits argue:

Marriage creates a two-tier system that allows the state to regulate relationships. It has become a facile mechanism for employers to dole out benefits, for businesses to provide special deals and incentives, and for the law to make distinctions in distributing meager public funds. None of these entities bothers to consider the relationship among people; the love, respect, and need to protect that exists among all kinds of family members. Rather, a simple certificate of the state, regardless of whether the spouses love, respect, or even see each other on a regular basis, dominates and is supported. (Ettelbrick, 1989)
Thus a changing demography, however finally established by social scientists, is evidenced currently in considerable activity at several levels: first to change state statutes to recognize same-sex marriages, and second domestic partnership legislation to provide access to “tangible benefits available to husbands and wives, including health and pension plans, rights of inheritance and community property, the joys of joint tax returns, and claims to each other’s rent-controlled apartments” (Isaacson, 1989).

Disturbances at the state level revolve around “permission” to marry. No state in the U.S. allows gays and lesbians to marry legally, as such permission by states is offered only for heterosexual marriages. Some states explicitly require the two parties to a marriage to be of opposite gender; in other states, the courts have determined that the implicit meaning of the law means opposite gender couples (Berkeley Human Relations and Welfare Commission, 1984). Thus protests of state law have focused on the advocacy of a broader extension of the rights of gay men, lesbians, and others to enter into legal marriage contracts (Isaacson, 1989). Though these initiatives appear to be the instigation of the gay-rights movement exclusively, the data cited above on unmarried opposite-gender couples would say otherwise, since heterosexual unmarried couples outnumber same-gender unmarried couples. “Of those whose emotional and financial relationship would qualify them to be called domestic partners, only 40% or so are gay (Isaacson, 1989). In fact, there are a variety of reasons why couples decide to live together outside of marriage:

For same-sex couples, there are legal obstacles to marriage. For young opposite-sex couples, “trial marriages” may be prompted by fear of making a wrong decision, a fear perhaps justified by the high divorce rates. Long periods, sometimes years, of cohabitation may provide an answer for divorcees trying to avoid renewing old mistakes. For elderly widows or widowers, unmarried
cohabitation may be a matter of economic survival, since remarriage can trigger the loss of marital survivor benefits. Economic disincentives or so-called "marriage penalties" prevent many disabled couples from marrying. (Los Angeles Task Force on Family Diversity, 1988)

Even though state statutes regarding marriage are quite specific, and unaccessible to same-gender couples, marriage-based benefits are not mandated by law upon local jurisdictions, private employers and other entities. The decision to base benefits on marriage is the employer's prerogative (Berkeley Human Relations and Welfare Commission, 1984). Thus, central to a discussion of employee benefits is the application of a criterion that not all employees can meet. That is, benefits programs that recognize marriage as the only vehicle for extending benefits to employees' partners essentially provide a benefit to some employees, but not to all. Several questions emanate from this decision: Should employee benefits be available to employee partners in non-marital situations? If so, should benefits be extended only to partners in adult relationships of choice where the two parties cannot marry (i.e., same-gender couples)? Or, should benefits be available to partners in adult relationships of choice, including same- and opposite-gender couples? And further, what criteria should an employing entity use to determine when a non-marital adult relationship of choice is due the same opportunities and rights now given only to marital relationships?

The social issues raised by definitions of family and marriage suggest that legal recognition of "family" by virtue of access to marital status limits the potential advantages of expanded access. A society that reinforces commitment and relationships in spite of legalities that have not kept pace with changes in the social fabric has much to gain. A New York Times article (August 31, 1989) makes this reference: "Society has good reason to extend
legal advantages...[to heterosexuals who marry]. They make a deeper commitment to one another and to society; in exchange, society extends certain benefits to them." If these are the social advantages vested in marriage, why not extend them to a larger proportion of the society? Proponents of this view argue that this does not destroy the traditional notion of family; rather, it expands the notion (Albanese, 1989), reinforcing through status and access to family benefits, the best of those values traditionally associated with the legal status of marriage.

These questions and the demographic profiles portrayed in this initial section of the Task Force report raise many issues about the social fabric of contemporary America. As acknowledged earlier, most of these issues are beyond the purview of this report. Squarely within the focus of this report is the potential inequity of denying benefits to those employees in adult relationships unrecognized by state statutes of marriage, while giving benefits to those employees in adult relationships recognized by states. Thus, the Task Force addressed the issue on the basis of fairness and equity. To pursue this point, the Task Force relied heavily on precedents set by other employing agencies who have addressed these inequities and implemented policies regarding "domestic partnerships."

Precedents Related to Domestic Partnerships

In reviewing domestic partner policies recently, Benefits Magazine (1989) observed that the interest is "unreal." Time Magazine (November 20, 1989) reported the results of a large-scale survey in which more than half the respondents (54%) favored the extension of medical and life insurance benefits to homosexual couples. Still, the number of employers extending benefits to domestic partners is somewhat limited. Experts estimate that a number of
employers have modified their family and bereavement leave policies to include live-ins as defined dependents (Benefits, 1989). They also readily acknowledge that the issue, which hinges on "what is a family," now reflects a number of permutations of what can be considered a family. In the following section of this report, the Task Force covers the major extant policy precedents relative to extending benefits to named partners of employees.

The extension of benefits to the domestic partners of employees is related, as are other precedents, to the role of the state in employment action. No state is known to have extended health care coverage to the domestic partners of its employees (Eblin, 1990). Ohio, however, does permit state employees sick and bereavement leave to care for a "significant other," defined as "one who stands in place of a spouse" (Eblin, 1990). Although no objective criteria exist for this term, beyond the phrase noted above, this and other issues are currently being addressed by the State Advisory Commission on Gay and Lesbian Issues (SACGLI). This task force has been engaged in a study of discrimination issues relative to sexual orientation since the mid-eighties, holding public hearings in the state and collecting verbal and oral testimony from state employees. "A significant number of persons testifying at the hearings noted that they receive benefits which are not equal to those received by their heterosexual coworkers" (SACGLI, 1990). As a consequence of these and other findings, the initial draft report of SACGLI recommended to Ohio Governor Richard Celeste that:

Benefits for state employees should include the same benefits for significant others (or "spouse equivalents") which are available to heterosexual, married spouses of such state employees. Such benefits should include: a) health care benefits, b) recognition of significant others with regard to sick leave and c) recognition of significant others with regard to bereavement leave. (SACGLI, 1990)
A growing number of universities, state and local governments and employers in the private sector have expanded their non-discriminatory employment policies to include gay, lesbian and bisexual employees. This new development in fair labor practices is part of a broader movement that recognizes important shifts in the structure and composition of American households and acknowledges the claims that sexual orientation constitutionally qualifies homosexuals for equal protection. This section of the report will review anti-discrimination policies and then discuss precedent-setting policies on the creation of domestic partner policies.

Existing Anti-discrimination Policies that Acknowledge Sexual Orientation

To date, 47 universities specifically bar discrimination on the basis of sexual orientation, including: Wisconsin, Yale, Harvard, Cornell, UCLA, University of Pennsylvania, University of Michigan, OSU, Rutgers, Haverford, N.Y.U. and Oberlin, to name but a few (Eblin, 1990).

State and local governments have also moved to protect employees from discrimination on the basis of sexual orientation. Two states, Wisconsin and Massachusetts, have passed laws prohibiting discrimination in employment, housing and public accommodations; and the governors of California, Minnesota, New Mexico, New York, Ohio, Oregon, Pennsylvania, Rhode Island, and Washington have issued executive orders prohibiting discrimination in state employment. The Governor's Executive Order 84-62 (issued in 1983) for the State of Ohio "prohibits employment discrimination on the basis of sexual orientation, with regard to employees of state agencies" (Eblin, 1990). In 1987, Governor Celeste issued Executive Order 87-30 (SACGLI, 1990) consolidating and revising the state's nondiscrimination and anti-harassment policies, paving the way for prohibition of sexual orientation discrimination in state collective
bargaining agreements. These agreements for both 1987 and 1989 permit usage of sick leave and bereavement leave for matters regarding significant others (also called "domestic partner," or "spouse equivalent").

In addition, 44 cities, including Columbus and 12 counties have enacted some form of legislation protecting gay and lesbian civil rights. The City of Columbus Ethnic Intimidation Ordinance provides "additional penalties for criminal acts which are motivated by hate, on the basis of race, religion, ethnicity, or sexual orientation" (Albanese, 1989). A growing number of corporations have also begun to include sexual orientation in their nondiscrimination policies, including American Broadcast System, AT&T, Bank of America, Citicorp, GE, IBM, J.C. Penny Corporation, Rockwell International, and Sears.

Existing Domestic Partner Provisions (Municipalities, Private Employers, and Universities)


1. Berkeley City Council adopted a domestic partner policy in 1984, extending dental and health care plans to designated partners. Unmarried couples file an Affidavit of Domestic Partnership (called an ADP) attesting that they have lived together for at least six months and "share the common necessities of life." By November of 1989, 113 couples had ADPs on file and 107 had selected health coverage. Fifteen percent of those on file represent same-gender couples. The total cost of extending coverage to these couples is about $130,000 per year.

2. West Hollywood initiated a domestic partner benefits plan in February, 1989, with less than 10% enrolling domestic partners.

3. Santa Cruz, with 630 employees, has extended coverage to domestic partners. Ninety percent of those filing ADPs are heterosexuals.

4. Seattle has recently extended health care benefits to domestic
partners of city employees. This is the outcome of a decision by the city's Human Rights Department that ruled the city was in violation of its own anti-discrimination laws by not providing coverage to unmarried partners. Two hundred employees or 2% of the work force have signed up for the coverage. To qualify for the benefits, employees sign affidavits swearing that the relationship is exclusive, that the partners are not related by blood, that they share household expenses and are responsible for each other's common welfare. Married employees have to sign the same affidavit.

Other cities, East Lansing, Michigan, Madison, Wisconsin, and Los Angeles, Denver, Minneapolis, and Washington, D.C., are considering extension of health benefits to domestic partners. Two of these cities, Madison and Los Angeles, as noted earlier, already extend sick and bereavement leave to what Madison refers to as "alternative families" (Eblin, 1990). East Lansing is now considering the whole package, including health and dental insurance. As a spokesperson for the city of East Lansing observed, "if that's the sort of risk we're willing to take for a married couple, why not take it for a non-married couple?" (Taravella, 1990).

Private Employers:

1. **American Friends Service Committee** has offered domestic partner benefits since 1987 and only five of 350 employees have taken part in the plan. This plan is covered by the Independence Blue Cross Association and John Hancock Life Insurance Company.

2. **American Psychological Association** has been offering domestic partner coverage since 1983 and has not had any adverse experience. This plan covers 3,000 members through Liberty Mutual Insurance Company. The **American Sociological Association** recently announced that it will seek domestic partner benefits for its membership as well.

3. **Kaiser Permanent** has 30 domestic partners enrolled in the HMO. Premiums were raised by 2% when the partner benefits were added because of the additional number of covered lives.

4. **Village Voice**, with 170 employees, has extended medical and dental plans to domestic partners since 1982. Fifteen to twenty domestic partners, half from opposite-gender couples, are enrolled in the plan. Claims have not been higher than those of other plan participants.
Other private employers providing such benefits include Levi Strauss & Company, the National Organization for Women, Albert Einstein College of Medicine/Montefiore Medical Center, and Seattle Mental Health Institute (Lambda Legal Defense and Education Fund, 1990).

Universities: University activity is limited to date to sick leave and bereavement coverage for domestic partners, as is the case at the University of Michigan. Its Family Care Program (implemented in March, 1989) provides for staff to use "some of their own paid time off benefits to care for incapacitated, ill or injured family members." The definition of family member is "the staff member's spouse or a domestic partner with whom the staff member shares living accommodations and expenses, and without regard to their place of residence." Rutgers has published a comprehensive report recommending, among others issues, the provision of health insurance and other benefits to domestic partners. The University of California at Irvine is advocating recognition of domestic partners relative to restrictions in married student housing.

Estimated Involvement, Costs and Potential Gains

Above we discussed the array of benefits currently provided for domestic partnerships in various other institutions and agencies. This section of the report discusses implications specific to The Ohio State University benefits system. The University's benefits program provides a wide variety of health and income protection plans as well as other programs and services. Although the University recently implemented a premium sharing plan and a co-pay system, these benefits still represent a significant portion of the total compensation of faculty and staff employees. These packages are available to
faculty and staff members who hold regular, continuing appointments of at least 50% FTE.

All totaled, these benefits include 27 options that are available to faculty and staff. The range of important benefits includes a traditional health plan, and two alternative University-sponsored health plans (OSUHP and the Buckeye Health Plan), life insurance, dental and vision care, long term disability, the public retirement system, fee authorizations for dependents and employees, leaves of absence (including vacation and sick leave), unemployment compensation, and access to a credit union, tax-deferred annuities and a flexible spending account. Other services considered as benefits include access to athletic and cultural events and the use of University library and recreational facilities.

These are all benefits now currently available to individual employees and their married partners. In several instances, however, recognition of a domestic partner has already been common practice, particularly with regard to access to recreational facilities, or purchase of parking stickers (which is not formally considered a benefit per se). If the policy were to change to recognize domestic partnerships, the Task Force assumes that all of these benefits would be made available to employees and their named partners. Or, the system could introduce aspects of coverage incrementally, as others have, beginning with sick and bereavement leave. In those cases where initial benefits were extended, however, almost all of those entities now have the additional benefits under immediate consideration.

Enrollment Costs

To project the possible enrollment and associated costs if the University were to extend benefits to domestic partners, the Task Force looked
at several methods. One method of determining a range of possible enrollments was to use the experience of those employers who have already implemented domestic partner benefits. At this time, five of the employers that have implemented health coverage for domestic partners with some significant user history reflect these results:

<table>
<thead>
<tr>
<th>Employer</th>
<th>Total Employees Covered by Medical Plans</th>
<th>Total Employees Enrolled with Domestic Partners</th>
<th>% of Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>City of Berkeley, CA</td>
<td>1,500</td>
<td>113</td>
<td>7.5</td>
</tr>
<tr>
<td>City of Seattle, WA</td>
<td>10,000</td>
<td>200</td>
<td>2.0</td>
</tr>
<tr>
<td>City of West Hollywood, CA</td>
<td>170</td>
<td>3</td>
<td>1.8</td>
</tr>
<tr>
<td>Village Voice, New York, NY</td>
<td>170</td>
<td>12</td>
<td>7.1</td>
</tr>
<tr>
<td>City of Santa Cruz, CA</td>
<td>630</td>
<td>Do not have data</td>
<td></td>
</tr>
</tbody>
</table>

A second method of estimating the potential population for the benefit was to use national census data and demographics published by the Bureau of Labor Statistics (Isaacson, 1989). These data were presented above and reflect 2.6 million households constituting unmarried couples of the opposite-sex and approximately 1.6 million households of unmarried same-sex couples. This results in approximately 8.4 million adults living in some form of domestic partner arrangement. The total population of persons eighteen years old and over in 1986, as published by the BLS, is equal to 173.7 million (Benefits, April, 1990). The resulting percent of adults living in domestic partner arrangements is 4.8%. If we assume the University's demographics to parallel that of the general population, then approximately 4.8% of our workforce would be living in some kind of a domestic partnership arrangement.

A review of benefits that might be extended to domestic partners and the current cost to the University reveals the following:
## Benefit

<table>
<thead>
<tr>
<th>Medical Coverages</th>
<th>Dental Coverage</th>
<th>Vision Coverage</th>
<th>Dependent Life</th>
<th>Dependent Fee Authorization</th>
<th>Sick Leave</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,047.96</td>
<td>$ 72.72</td>
<td>$ 0</td>
<td>$ 0</td>
<td>Did not calculate</td>
<td>Did not calculate</td>
<td>$1,120.68</td>
</tr>
</tbody>
</table>

Using the aforementioned information from entities already offering domestic partner coverage, a range of estimated costs can be calculated as follows:

<table>
<thead>
<tr>
<th>% of Enrollment</th>
<th>Eligible Workforce</th>
<th>Expected Enrollment</th>
<th>Cost per Enrollee</th>
<th>Extended Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>2%</td>
<td>16,000</td>
<td>320</td>
<td>$1,120.68</td>
<td>$358,618.00</td>
</tr>
<tr>
<td>4.8%</td>
<td>16,000</td>
<td>768</td>
<td>$1,120.68</td>
<td>$860,682.00</td>
</tr>
<tr>
<td>7.5%</td>
<td>16,000</td>
<td>1200</td>
<td>$1,120.68</td>
<td>$1,344,816.00</td>
</tr>
</tbody>
</table>

### Potential Gains

Potential gains associated with the extension of employment benefits to named partners of university employees are evident at both the individual and the institutional levels. Related to issues already discussed, social reinforcement of relationships built on commitment, longevity, and economic welfare undergird the capacity of the partners to retain stable relationships. This benefits the psychological welfare of the individual and the social common good.

To an employing entity, and specifically a university setting, several gains will accrue from a more enlightened benefits policy. First, given
societal shifts in family demography, institutions of higher education will surely serve a more diverse array of partner arrangements among its faculty and staff. Thus, recognition of these new family structures is imperative to the equitable allocation of personnel benefits.

Second, recruitment will be facilitated by acknowledgement that individuals are now and will continue to seek employment who have alternative family needs regarding benefits, including named partner concerns. Expectations among potential candidates are likely to reflect the observation recently carried in *Academe*, the national bulletin of the American Association of University Professors, in which the author advocated more equitable anti-discrimination policies to include the extension of benefits to domestic partners:

>[Faculty]...expect the academy to embrace higher standards of civility, decency, and justice than the society around it. Having been granted the extraordinary privilege of thinking critically as a way of life, we should be astute enough to recognize when a group of people is being systematically mistreated. We have the intelligence to devise solutions to problems that appear in our community. I expect us also to have the courage to lead rather than follow. (D’Emilio, 1989, p. 18)

Finally, The Ohio State University, in particular, has been a leader among other major institutions with regard to anti-discrimination efforts. Along with an early decision to establish an Office of Affirmative Action, a Women’s Studies program, the newly created Office for Gay, Lesbian and Bisexual Programming, a nationally recognized minority recruitment program, Ohio State now holds the possibility of leading the nation in establishing a more enlightened and equitable benefits program that other institutions of our calibre could emulate.
Administration of the Program

Assurances and Registration Procedures

The definitional properties of spouse equivalency relationships are important from a number of perspectives, including social considerations, demographic analyses, and legal recognitions through state and federal statutes. However, the primary consideration for the Task Force has been determining the kinds of relationships such a policy might include. Further, every known health plan covering domestic partners has a registration mechanism and requires the partners to have lived together a minimum period of time before the non-employee becomes a plan dependent. This section of the report will cover both the necessary assurances (authentications) typically covered and the registration process used in other employing entities that have implemented domestic partnership coverage. As well, we highlight several issues that may arise in the implementation phase, should domestic partner coverage be approved.

The terminology typified in the extensive reviews of policy available to the Task Force featured these references: spouse equivalent (thus the name of our Task Force), named partner, significant other, domestic partner, and common law affiliations. Each of these specifications was reviewed carefully. There was discomfort with the term "spouse equivalent." For some, the term assumes an attempt to establish a legal equivalent to marriage for those who choose not to or are prohibited from seeking that legal contract. While there has been much discussion of heterosexual couples involved in common-law relationships, as well as documentation that they comprise the largest portion of the population the task force is concerned about, the highlighted issue
relates to gay and lesbian couples. An equivalent to marriage is not necessarily being sought, however, by either group.

Thus, named partner status appears to be the more inclusive, and less judgmental of the terms, including its variant, "domestic partnership." This later term is most replete in the legal documentation reviewed by the Task Force and, consequently would connote the most precedent-worthy designation. The definitional properties of the named partner option, then, would need to be elaborated. Typically, these arrangements exist between two individuals over 18 years of age, including unmarried heterosexual couples as well as lesbian and gay couples, in a committed relationship involving economic, personal, and social bonds. Persons in this category may include heterosexuals, gay men, lesbians, and elderly couples.

Typically legal testimony to this relationship involves some form of registration process which requires the employee to affirm that the conditions noted in the definition are present in the relationship. There is also some precedent for requiring the conditions to have been in place for some period of time. One year seems to be the emerging standard. There is also some precedent for requiring that the employee have been disengaged from a previous domestic partnership from six months to a year before declaring this status.

The registration process typically requires filing an "affidavit of domestic partnership" (an ADP). This authentication gives public notice as to what proof will be required to show that any given relationship qualifies under the chosen definition of "domestic partnership." The affidavit certifies that the individuals share the same regular and permanent residence, have a close personal relationship, and are economically interdependent; are not married to anyone, are each 18 years of age or older, not related by blood
closer than would bar marriage in the state; that they were mentally competent to consent to contract when their domestic partnership began, are each other’s sole domestic partner and responsible for their common welfare, and have terminated any prior domestic partnership at least 90 days prior to filing the affidavit. An example of an affidavit of domestic partnership is included in Appendix A.

Other agencies have also acknowledged the need concurrently to seek affidavits from those who are legally or common law married. At present, it is typical in most situations to simply ask the employee to designate the name of the spouse, and no further “checks” are made to determine the legality of those claims. Adding the affidavit for all categories of “named partnership” may be the most equitable way to manage testimony to the array of relationships recognized from the policy adaptation.

Issues Related to Administration

Several points need to be discussed that the Task Force uncovered in its review of spousal equivalency status. First, we underscore the importance of specifying criteria and a waiting period for changing beneficiaries. The idea of “revolving beneficiaries” presents the possibility that employees could substitute at will serial friends whose coverage would be desirable. The registration process precludes that possibility. Concerns over fraud in the system, both for married and non-married employees, could and have been dissuaded by the registration process as well (Lambda Legal Defense and Education Fund, 1990).

Insurance companies have been hesitant to extend coverage on plans that include domestic partnerships. As Trends and Surveys observed recently (1990), “insurers argue that there is no way to determine the risk pool, which
would make it impossible to determine profitable premiums." The Task Force does not agree and has in this report presented data which define the risk pool. The Task Force also strongly believes this is more an issue of equity.

With considerations of domestic partnerships comes the issue of the "stepchild equivalent," or coverage for the dependents of the domestic partner. Although some plans have refused to address this option, others (such as Village Voice and West Hollywood) have determined that to refuse this enrollment would simply be a recycling of the inequities the domestic partner status sought to overcome.

Several references in the review of domestic partner policies point to concerns over "adverse selection," and the idea that given the approximate population of same-gender registrants, the likelihood of increasing the number of cases of AIDS among enrollees might surface. In a study at Washington University, (Dollars and Sense, March, 1990), five states (California, Florida, New York, New Jersey and Texas) were surveyed with regard to claims paid for AIDS coverage. AIDS costs accounted for less than 1% of the total claims paid during the reporting period studied. Figures on the average lifetime costs of AIDS treatment per patient are now in the range of $30,000 to $60,000, far from the initial estimates of upwards to $1 million per patient.

Finally, several reviews reference concerns regarding tax laws and domestic partner coverage. Two issues result, and one has already been resolved. With regard to Section 89 of the tax reform law, family definitions in the regulations would have severely punished plans covering unmarried partners (Lambert, 1990). However, with the repeal of Section 89, there remain no serious tax impediments to implementation of domestic partner
coverage. Still unresolved is whether employees must declare domestic partner coverage as a form of taxable income. Declaration is potentially required in cases where named partners are dependent for more than 50% of their economic welfare upon the employed partner. Cases of two fully employed partners would not warrant declaration. Users should be advised as to the potential of such action until such time as this aspect of the tax law is resolved (Lambert, 1990).

**Policy Implications of The Task Force Report**

The Task Force has made every attempt to present a thorough rendering of the issues associated with spousal equivalency benefits issues. We have covered precedents as well as potential problems, and have projected the possible costs associated with the implementation of such a policy at The Ohio State University. While we are fully aware of the political realities against which a policy of this nature must be weighed, the Task Force believes that the primary issue is one of equity in the extension of benefits fairly across the University population. This issue is squarely addressed in the previous recommendations of the Faculty Compensation and Benefits Committee and the Affirmative Action Council. The costs of adding coverage for domestic partners of non-married employees would reflect less than 1% of our current benefits costs. Further, we have proposed reasonable implementation procedures to assure appropriate involvement.

Finally, the Task Force is well aware that universities are beginning to consider domestic partner coverage policies. It is expected that domestic partner benefits at universities will emanate as an extension of anti-discrimination policies. We can profit, in this instance, from the example set by those entities who have extended the equity dimensions of their
benefits programs through the addition of domestic partner benefits. We can lead, as we have in the past, by setting an equity example through the provision of domestic partner benefits.
REFERENCES


Alternative lifestyles redefine "family coverage." *Employee Benefit Plan Review*, 20, 22.


Faculty Compensation and Benefits Committee. (1989). Report on faculty benefits at the Ohio State University. Columbus, OH: The Ohio State University.


Seattle enacts ordinance allowing benefits for "domestic partnerships" (1989, September 8). Benefits Today, 6, 290.


CITY OF BERKELEY

AFFIDAVIT OF DOMESTIC PARTNERSHIP

I, ___________________________________, certify that:

Name of Employee (Print)

1. I, ___________________________________, and

Name of Employee (Print) and Domestic Partner (Print)

reside together and intend to do so indefinitely at: (Address)

____________________________________________________________________

and share the common necessities of life;

2. We affirm that the effective date of this domestic partnership is

__________________________

Date

and that this domestic partnership has been in existence for a period of six (6) consecutive months, at least, prior to the date identified on this affidavit. We understand that documentation will be required.

3. We are not married to anyone.

4. We are at least eighteen (18) years of age or older.

5. We are not related by blood closer than would bar marriage in the State of California and are mentally competent to consent to contract.

6. We are each other's sole domestic partner and intend to remain so indefinitely and are responsible for our common welfare.

7. We understand that domestic partners are subject to the same 30-day "window" periods governing all other employees who are covered by or applying for health plan coverage. New children, new employees, adoptions, new marriages and domestic partnerships are all subject to a 30-day limit on the enrollment period beginning on the date of the event.

8. We agree to notify the City if there is any change of circumstances attested to in this Affidavit within thirty (30) days of change by filing a State of Termination of Domestic Partnership. Such termination statement shall be on a form provided by the City and shall affirm under a penalty of perjury that the partnership is terminated and that a copy of the termination statement has been mailed to the other partner.
9. After such termination I, ____________________________,
   (Employee),
understand that another Affidavit of Domestic Partnership cannot
be filed until six (6) months after a statement of termination
of the previous partnership has been filed with the Risk Management
Office.

10. We understand that any persons/employer/company who suffer any loss
because of false statement contained in an Affidavit of Domestic
Partnership may bring a civil action against us to recover their
losses including reasonable attorney's fees.

11. We provide the information in this Affidavit to be used by the City
for the sole purpose of determining our eligibility for domestic
partnership benefits. We understand that this information will be
held confidential and will be subject to disclosure only upon our
express written authorization or pursuant to a court order.

12. We affirm, under penalty of perjury, that the assertions in this
Affidavit are true to the best of our knowledge.

__________________________________________
Date                                            Signature of Employee

____________________________________________
Date of Birth

____________________________________________
Date                                            Signature of Domestic Partner

____________________________________________
Date of Birth

(Revised 11-15-86)
LIST OF POTENTIAL RECIPIENTS OF THE
SPOUSAL EQUIVALENCY TASK FORCE REPORT

Madison Scott
Vice President
Personnel Services
113 Archer House
2130 Neil Avenue
CAMPUS

Deborah Gill
Chair
Staff Advisory Committee
1150 Lincoln Tower
1800 Cannon Drive
CAMPUS

William Shkurti
Acting Vice President
Finance
381 Bricker Hall
190 N. Oval Mall
CAMPUS

Phillip Martin
Acting Director
Office of Gay, Lesbian
and Bisexual Programming
015 Oxley Hall
1712 Neil Avenue
CAMPUS

Franklin Simpson
Associate Executive Officer
Office of Affirmative Action
1100 Lincoln Tower
1800 Cannon Drive
CAMPUS

Chair
Committee on Women
and Minorities
c/o University Senate Office
126 University Hall
230 N. Oval Mall
CAMPUS

Joseph Russell
Vice Provost
Office of Minority Affairs
210 Bricker Hall
190 N. Oval Mall
CAMPUS

Gerald Reagan
Chair Pro tem
Faculty Compensation
and Benefits Committee
121 Ramseyer Hall
29 W. Woodruff Avenue
CAMPUS

Russell Spillman
Vice Provost
Office of Student Affairs
201 Ohio Union
1739 N. High Street
CAMPUS

Nancy Zimpher
Chair
Fiscal Committee
121 Ramseyer Hall
29 W. Woodruff Avenue
CAMPUS

Richard Hollingsworth
Dean of Student Life
249 Ohio Union
1739 N. High Street
CAMPUS

Susan Hartmann
Director of Women’s Studies
207 Dulles Hall
230 W. 17th Avenue
CAMPUS