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North Texas Domestic Partner Benefits Policies

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A challenge facing managers and human resource professionals is determining whether to expand benefits, especially health insurance, beyond employees to other eligible dependents. Immediate family members such as the spouse and/or dependent children of employees are commonly eligible for company sponsored benefits. Among larger companies, unmarried same-sex or opposite-sex domestic partners are more frequently being included as eligible for coverage under employee benefit plans.

Some reasons to provide domestic partner benefits include keeping organizations competitive to retain good employees, increasing diversity, and needing to make the workplace a welcome and safe place for all. Resistance focuses on religious objections, the ambiguity of the definition of domestic partner, and additional costs to provide the benefits.

To ascertain policies affecting gay, lesbian, bisexual, and transgender (GLBT) employees, we describe survey results from human resource (HR) professionals regarding their organization’s non-discrimination policies covering GLBT employees, and the extent to which GLBT employees have access to the same benefits as heterosexual employees.

To find out this information, Malcolm Coco, one of our coauthors, surveyed attendees of the Society for Human Resource Management (SHRM) monthly meetings in Northern Texas. 150 respondents completed the domestic partner benefits survey between April and May of 2008.

Questionnaires from Abilene, Arlington, Brownwood, Fort Worth, Lubbock, Midland/Odessa, San Angelo, and Stephenville, Texas chapters in Texas were obtained. The majority of the sample was human resource managers from companies that had 500 or fewer employees.

RESULTS

Table 1 summarizes the information on company non-discrimination policies. 141 of the respondents’ organizations have non-discrimination policies, with 134 including the protected classes mandated by federal law. Specific to GLBT employees, 46 include sexual orientation, and 28 include gender identity in their policies. Marital status is included in 37 policies. In addition to the protected classes defined by federal law, Texas law includes non-discrimination on the basis of political affiliation and public financial assistance. In

the “Other” category, two respondents claimed their employers were not EEO employers, two were religious organizations able to discriminate on the basis of religion, one respondent’s company policy varied state by state, while one company’s policy included the protected classes in California law, and another included the classes found in Minnesota law.

TABLE 1
Protected Class Policies

Characteristic	Frequency	%
Does your organization have its own employment non-discrimination policy?		
Yes	141	94.0
No	6	4.0
Don’t know	3	2.0
Protected classes included in the policy (check all that apply):		
As mandated by Federal laws	134	89.3
Sexual orientation	46	30.7
Gender identity	28	18.7
Marital status	37	24.7
Public assistance	13	8.7
As mandated by Texas law	5	3.3
Other	7	4.7
Don’t know	5	3.3

The “Other” Category highlights part of the managerial dilemma. A policy of minimal compliance that adheres to federal protected classes, and each individual state’s requirements, can result in potentially 50 different lists of protected classes for companies doing business across states. On the other hand, setting policy broadly to comply with the most inclusive definition of protected classes, such as California, may result in higher benefit costs, and may require more training of personnel to assure compliance and prevent discrimination claims.

Employment Practices

About 90% of the respondents stated that their non-discrimination policy applied to hiring decisions, with

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about 80% being used in layoff/termination decisions, promotions, and pay. 75% said the non-discrimination policy applied to benefits, and about 67% applied to paid leave and Family Medical Leave benefits. Finally, about 49% said the non-discrimination policy applied to the use of other company facilities.

Non-discrimination in Benefits

It is a quirk of the USA system that social goods, such as health insurance and retirement benefits, are a function of one's employment, not citizenship as is the case in most industrialized nations. Reflecting that practice, only 12 of the respondents' companies didn't offer insurance benefits to spouses (recall that "spouse" is defined by the Defense of Marriage Act as a married individual of the opposite sex). Of the 137 respondents' companies, 91.3% offer health/medical insurance for spouses of employees. Contrast that with the 15 companies that offer health/medical insurance for opposite-sex domestic partners of employees, and 18 companies that offer health/medical insurance for same-sex domestic partners of employees. Married spouses also have greater availability of life insurance, dental or vision insurance, retirement benefits, employee discounts, access to Employee Assistance Programs, and other employer provided benefits (see Table 2). By limiting access to group insurance to marital status, many employees are put at a disadvantage in caring

for their significant others. As of February 2013 nine states and the District of Columbia recognize same-sex marriage, making benefits tied to marital status similar for straight or gay couples.

Documentation Requirements for Domestic Partners

While it is rare for companies to require a copy of a marriage license for employees with opposite-sex partners, some form of affidavit or documentation is typically required for domestic partners (same-sex or opposite-sex) of employees to gain access to benefits. Documentation that companies may use include a marriage license, a civil union license, registration of a domestic partnership from a state, county, or city where available, or instituting a company policy with an affidavit completed and signed by the employee as proof of the domestic partnership.

Table 3 shows the various forms of proof accepted by companies in the survey, with some companies accepting multiple types of documentation.

As of February 2013, in the state of Texas in the public sector, there are three counties (Dallas, El Paso, Travis Counties), five cities (Austin, Dallas, El Paso, Fort Worth, San Antonio,) and one school district (Pflugerville Independent School District) that have health care benefits for domestic partners of city employees.

TABLE 2
Benefits for Employees' Significant Other

Benefits Offered to:	Spouses		Opposite-sex Domestic Partner		Same-sex Domestic Partner	
	Frequency	%	Frequency	%	Frequency	%
None	12	8.0	122	81.3	118	78.7
Health/Medical Insurance	137	91.3	15	10.0	18	12.0
Life Insurance	106	70.7	12	8.0	13	8.7
Dental or Vision Insurance	130	86.7	14	9.3	16	10.7
Retirement	16	10.7	3	2.0	3	2.0
Employee Discounts	37	24.7	4	2.7	6	4.0
Employee Assistance Programs	63	42.0	9	6.0	10	6.7
Other Employer Provided benefits	21	14.0	1	0.7	5	3.3
Don't Know	2	1.3	11	7.3	10	6.7

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TABLE 3
Documentation of Domestic Partnership

Documentation Examples	Frequency	%
No benefits coverage to domestic partners	110	73.3
No documentation required	2	1.3
Employee's signature	4	2.7
A company affidavit signed by both partners	14	9.3
Copies of Receipts of Financial Responsibilities	5	3.3
Proof of local or state domestic partnership registration	6	4.0
Proof of state or civil union or marriage certification	10	6.7
Proof of marriage from any other country	3	2.0
Other (common-law marriage-opposite-sex only)	4	2.7
Don't know/blank	12	8.0

IMPLICATIONS FOR PRACTICE


Even in Texas, a state whose state laws offer few protections for GLBT individuals, some organizations have considered same-sex couple policies and have mentioned sexual orientation in their policies in general. Having such policies should be weighed in terms of legal, ethical, religious, political, and profit considerations.

Organizations that incorporate GLBT policies should consider how to show proof of same-sex domestic relationships. The most common proof is a company affidavit signed by both partners. Organizations should also consider the complications associated with having plants or divisions in various states due to the varied state laws and cultural norms.

CONCLUSION

The survey of 150 members of the northern Texas Society for Human Resource Management members showed that policies for GLBT individuals were not common. Only thirty percent of respondents reported sexual orientation mentioned somewhere in organizational policies. About twelve percent reported health/medical insurance for same-sex domestic partners. The most common way for domestic partners to prove their partnerships was to provide company affidavits signed by both partners. Texas organizations should weigh their pocketbooks, politics, ethics, religious convictions, and laws when considering GLBT-friendly policies.

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