

**LETTER FROM UNIVERSITY COMMITTEE ON FACULTY  
WELFARE  
RE DOMESTIC PARTNER BENEFITS**

January 31, 1996

PROFESSOR ARNOLD LEIMAN  
CHAIR, ACADEMIC COUNCIL

Re: Benefits for Non-Spouse Domestic Partners

At its meeting today, the University Committee on Faculty Welfare (UCFW) reiterated its 1993 recommendations to extend benefits to non-spouse domestic partners of University employees. We urge you to seek immediate implementation of our recommendations, which were made by UCFW thirty-one months ago, and supported by the Academic Council twenty-one months ago.

I. UCFW's 1993 Recommendations:

UCFW's recommendations are contained in the following excerpts from Richard Gable's letter of June 28, 1993:

Recommendation 1. Basic Principle: There should be symmetry to the extent possible, between the universitywide benefits and campus amenities extended to the spouses and the children of spouses of eligible employees and those extended to the non-spouse domestic partners (NSDPs) of eligible employees and the children of NSDPs.

Recommendation 2. Definition of a NSDP: A non-spouse domestic partner (NSDP) is an unmarried partner, either of the same sex or the opposite sex, of an employee of the University of California who is eligible for University benefits. NSDPs may not be related by blood closer than married partners may be related by blood in the State of California, neither partner may be married to anyone else, nor may either partner have another domestic partner.

Recommendation 3. Contract required: For an NSDP to be eligible for University benefits, an employee eligible for University benefits and his or her NSDP shall sign and file with the UC Benefits Program office a University-drafted written, enforceable contract that commits both parties to financial obligations equivalent to those enforceable in a marriage contract and that are

not waivable by a pre-nuptial agreement. Employees who falsify contracts shall be subject to appropriate disciplinary action.

Eligible employees who have filed a contract reporting a NSDP for the purpose of receiving University benefits and campus amenities must report to the UC Benefits Program office the dissolution of the domestic partnership. Employees who fail to report the dissolution of a partnership shall be subject to the same penalties as are imposed on employees who fail to report dissolution of a marriage.

Recommendation 4. Health benefits: On the filing of the above specified contract, the NSDPs of eligible employees and the children of NSDPs should received the same health benefits that are provided spouses and the children of spouses of eligible employees. The cost of these health benefits should be paid by the University at the same level as they are paid for eligible employees' spouses and their spouses' children, i.e. tax-qualified dependent children.

Recommendation 5. Pension and survivor benefits: If the above specified contract has been filed with the UC Benefits Program office, upon the death of an employee before retirement, the employee's NSDP and children of the NSDP should be entitled to the same survivor benefits that are provided the employee's spouse and the children of the spouse.

When an employee retires, the employee may elect to receive his or her pension as a joint and survivor annuity so that the employee and his or her NSDP is benefited on the same terms as is an employee's spouse, provided the above specified contract has been filed with the UC Benefits Program office. The employee must elect at least a 50 percent continuation of benefit for his or her NSDP unless the NSDP consents, in a written statement filed with the UC Benefits Program office, to a lower continuation benefit elected by the employee.

In implementing these provisions, the UC Benefits Program office should design appropriate forms and informational materials to assist employees to make intelligent choices among the benefit and survivor option[s] available for NSDPs. The distinction between filing a contract of a non-spouse domestic partnership and designating a beneficiary must be made clear. Campus benefit counselors should also be educated about this distinction. As always, employees should also be alerted that tax advice should be sought before making choices.

Recommendation 6. Campus amenities: Employees' NSDPs and their children should have access to the same campus amenities as do employees' spouses and their children. Divisional welfare committees should review the amenities currently provided employees and their families and recommend to divisional chairs and appropriate divisional bodies the amenities which should be provided NSDPs and their children to achieve symmetry with the amenities provided spouses and their children. Divisional chairs should report the action taken in this regard to the Academic Council.

## II. History of this Proposal:

The first request by a UC employee for benefits for his NSDP was made in 1981. In its final report for 1990-91, the University Committee on Affirmative Action recommended provision of NSDP benefits. In October 1991, this recommendation was referred to UCFW, which established a Subcommittee on Affirmative Action chaired by Daniel Mitchell. In February 1993, the Mitchell Committee presented a sixty-eight page report (including appendices) outlining options for providing benefits to NSDPs. In June 1993, UCFW adopted the recommendations outlined in Part I. In the summer of 1993, the Academic Council sent these recommendations to the nine campus Divisional Councils for comment. After receiving these comments, the Academic Council in April 1994 endorsed the UCFW recommendations. In September 1995, outgoing UC President Peltason released a fifteen page report entitled "Preliminary Finding on the Extension of Benefits and Amenities to the Domestic Partners of UC Faculty, Staff and Students;" this report does not take a position on whether UC should proceed to implement NSDP benefits. However, the individual campuses have taken steps to provide campus amenities to employees' NSDP's on the same basis as they are provided to employees' spouses. The Vice Chancellors for Student Affairs are considering a proposal that would allow individual campuses to set priorities for family student housing and thus allow campuses to allow NSDPs to live in this housing. In connection with the recruitment and retention, *ad hoc* arrangements have been made to provide health insurance coverage to the NSDPs of a few faculty.

## III. Major Employers Providing NSDP Health Insurance Benefits:

The number of employers providing benefits to the NSDPs of their employees has been growing so rapidly that any list now is necessarily incomplete and quickly out of date.

*Universities:* Brown University, City University of New York, Columbia University, Cornell University, Dartmouth College, Harvard University, M.I.T.,

Middlebury College, New York University, Northwestern University, Northeastern University, Princeton University, Stanford University, University of British Columbia, University of Colorado, University of New Brunswick, University of New Mexico, University of Chicago, University of Iowa, University of Michigan, University of Minnesota, University of Pennsylvania, University of Toronto, University of Vermont, University of Waterloo, University of Windsor, Wesleyan University, Wilfred Laurier University, York University and Yale University.

*Major California Employers:* Advanced Micro Devices, Apple Computer, Genentech, Kaiser Permanente, KQED, Levi Strauss, Kaiser Permanente, MCA/Universal, Next Computer, *San Francisco Chronicle*, *San Francisco Examiner*, Viacom, and Warner Brothers.

*California public entities:* Bay Area Rapid Transit District (BART), City of Berkeley, City of San Diego, City and County of San Francisco, City of Santa Cruz, City of West Hollywood, County of Los Angeles.

It is worth noting that five (Harvard, M.I.T., Michigan, Stanford, and Yale) of the so-called "Comparison Eight" universities that UC uses in setting faculty salaries currently offer domestic partner benefits. It is also worth noting that seven public universities in the United States (Colorado, City University of New York, Iowa, Michigan, Minnesota, New Mexico, Vermont) as well as seven Canadian public universities (British Columbia, New Brunswick, Toronto, Waterloo, Windsor, Wilfred Laurier and York) offer benefits.

The "Preliminary Findings" of the Office of the President list only three American public universities offering NSDP medical benefits. That report notes that Michigan pays up to \$359.31 per month per employee, and that Minnesota reimburses the employee for the cost of the NDSP's own separate health insurance plan up to the amount of the University's contribution for the employee's health plan premium. The report then concludes

"Currently, no State recognizes domestic partners and therefore domestic partners are not eligible for State-funded coverage. ... From the survey information, it appears that public universities desiring to extend benefits to domestic partners have avoided the issue of public funding by: (1) offering coverage under self-insured plans, and/or (2) requiring employees to pay for the cost of covering domestic partners by paying the difference between the cost of individual coverage and family/dependent coverage."

This conclusion is at variance with the findings cited by the report. According to the report, both Michigan and Minnesota provide substantial funding to cover NSDPs. The \$359.31 per month that Michigan provides is enough to pay the full cost of two individuals in most of the plans that UC offers. Similarly, Minnesota pays as much for the NSDP as it pays for each individual employee.

It should be noted that the University of California maintains its own health insurance plans, separate from those run by the Public Employee Retirement System (PERS) for state employees and certain municipal employees. Thus, the University is not governed by the state's definition of dependent, and has departed from it in the past.

#### IV. Cost Estimates:

When UCFW first adopted its recommendations, there was little evidence on the per capita cost of providing medical care to NSDPs, but anecdotal evidence suggested they are no more expensive per capita than spouses. Since that time, a large number of employers have adopted health insurance plans for their employees' NSDPs; the evidence now clearly shows that NSDPs are no more expensive to cover per capita than are spouses.

Thus, the main cost uncertainty concerns the number of NSDPs who would be enrolled. This indicates to us that the cost is a peripheral issue. UC currently provides coverage to spouses at a cost of approximately \$1800 per year for each employee's spouse who is covered. UC does this because it perceives that the benefits in terms of recruiting and retaining employees outweighs the cost. To put that another way, spending \$1800 to provide health insurance for the employee's spouse is more valuable to the employee than spending the same amount of money on additional salary or other benefits. Exactly the same thing is true with regard to employees with NSDPs; the benefits in terms of recruiting and retaining employees with NSDPs will outweigh the costs.

The UCOP report notes that the average enrollment rate for NSDPs in eight universities surveyed by the University of Michigan was 0.29%, and computes costs under three enrollment rate scenarios: 0.58%, 1.5%, and 3.0%. Note that the 3.0% scenario represents an enrollment rate *ten times higher* than the average reported in the University of Michigan survey. Even under the 3% enrollment rate scenario, the cost would be only 2% of UC's current employee health care expenditures.

#### V. Pensions:

Under federal law, an employee may at the time of retirement designate any other person to receive a continuation benefit in the event that the employee dies before the other person; the employer is allowed to make an actuarial reduction in the amount of the pension to compensate for the value of the continuation benefit. Thus, employees are guaranteed the right to name their NSDPs as recipients of this continuation benefit.

However, the University treats NSDPs much less favorably than spouses. The University provides a substantial continuation benefit to spouses (50% continuation for employees who are not coordinated with Social Security, 25% for employees who are coordinated with Social Security) *without making any actuarial reduction*. Thus, an employee not coordinated with Social Security can provide a 50% continuation benefit to his/her spouse and still collect his/her full pension; however, if the same employee has an NSDP, the employee has to accept a significantly lower pension in order to obtain the same continuation benefit for his/her NSDP. The University discriminates even more severely against the NSDPs of employees who die before retiring; while a spouse is entitled in most cases to a pension or salary continuance, the NSDP (assuming he/she is designated as the employee's beneficiary) is eligible only for the return of the employee's contributions.

Many of the institutions that compete with the University of California offer defined contribution plans run by TIAA/CREF. TIAA/CREF offers continuation benefits to NSDPs on exactly the same basis as spouses. At least one employer with a defined benefit plan, the City and County of San Francisco, recently amended its pension plan to equalize the treatment of spouses and NSDPs.

#### VI. Opposite-Sex NSDPs:

The vast majority of private and governmental employers that offer benefits to NSDPs cover both same- and opposite-sex partners. Most universities have chosen to cover only same-sex partners. It appears that this is largely a historical accident; Stanford chose to cover only same-sex partners, and other universities have followed its lead. However, the General Counsel has apparently concluded that it would be illegal for UC to cover same-sex partners while excluding opposite-sex partners; the General Counsel's opinion has not been released. We reiterate our position that both same- and opposite-sex partners should be covered.

Lawrence Pitts, Chair  
University Committee on Faculty Welfare (UCFW)