

**LESBIAN AND GAY
LABOR NETWORK**

Pride at Work

**Organizing for Lesbian and Gay Rights
in Unions**

by Miriam Frank and Desma Holcomb

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The Lesbian and Gay Labor Network of New York.

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Unions**

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by **Miriam Frank and Desma Holcomb**

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AN AIDS PROGRAM FOR NYC'S LABOR MOVEMENT

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INTRODUCTION

October 1987, Washington D.C: The great march for gay and lesbian rights.

The Saturday afternoon before the March, the AFL-CIO opened its headquarters lobby to a reception honoring the March for Gay and Lesbian Rights. Officially sponsored by the Services Employees International Union (SEIU), the event was not listed in the *AFL-CIO News* of the week before. Nevertheless, 500 union people showed up to hear news about the work of lesbian and gay labor activists from around the country. Representatives of the AFL-CIO, the Coalition of Labor Union Women (CLUW) and the District of Columbia Metro Labor Council addressed the gathering. So did officials of seven AFL-CIO national affiliates. For many of us who had always separated our "gayness" from our dedication to the union cause, the reception was a wonderful and exciting "Coming Out."

The next day, marching down Constitution Avenue with our banner "Gay Pride At Work!" we of the New York City Lesbian and Gay Labor Network were joined by activists from Boston and San Francisco who have also formed trade union lesbian and gay organizations. As we marched, we traded information about Coors Boycott actions in past years and plans for securing domestic partner rights. The streets were thronged with other marchers cheering us along. We yelled out to the crowds, "Are You a Union Member?!" "Yeah," we heard. "What union," we asked back, and

the replies were numerous: "Teamsters! Local 22! AFSCME! Look--here's my card! Equity! Local 4! Teachers! Carpenters! Local 124!" Gays and lesbians in the labor movement--we are everywhere!

The march was huge; march organizers counted up to 500,000. United Farm Workers President Cesar Chavez was a featured speaker at the rally where he roused a mighty roaring chant--"Viva La Causa"--for the union's Boycott Grapes campaign, declaring the solidarity of labor and the movement for gay and lesbian rights in the struggle for justice.

Later, we visited the exhibition of the AIDS Quilt as it was spread on The Mall, between the Washington and Lincoln memorials. Each piece of the quilt, dedicated to an individual who has died of AIDS, has been created by survivors--families, lovers, friends--to express grief and love. A guide at the AIDS Quilt, a nurse at San Francisco General Hospital, showed us the squares that he and his co-workers had sewn. Their work was sponsored by SEIU Local 250, which represents health care workers in the Bay Area. The quilt has also received support from the International Ladies Garment Workers Union.

Many who made the commitment of demonstrating that weekend came from all over the USA to march under the banners of thousands of different regional, religious, cultural, political, service and social organizations. The marching labor network contingent was not large, but the responses from the sidelines showed us that many gay people pay union dues.

As activists, we have something special to offer the labor movement: organizing skills developed in the lesbian and gay community can be effectively transferred to union work. We can commit fresh energy to solving ordinary problems in organizing our shops and keeping our contracts strong.

It is also important for us to make the issues of our community meaningful in the life of our unions. We can involve our co-workers and elected officials in our struggles to implement domestic partner rights. We can emphasize to our representatives the importance of AIDS education for everyone in the bargaining unit, and we can urge our organizations to reach out to PWA members in a compassionate and caring way.

As activists, we have something special to offer the labor movement. Organizing skills developed in the lesbian and gay community can be effectively transferred to union work.

There are two major themes to this booklet: 1) the struggle for domestic partner benefits and 2) AIDS in the workplace. Today, these two issues are at the forefront of gay and lesbian organizing in the labor movement and of vital concern to everyone. In researching these topics, we spoke with union staff, elected officials, rank and file organizers and representatives of gay and lesbian caucuses in a variety of unions. We drew on contacts from all over the country, and we studied effective programs, programs in crisis, bargaining victories as well as stymied campaigns.

One of the most exciting things to happen while we were writing this booklet is that the issues kept changing from day to day. The campaign for domestic partner benefits, little more than a fervent dream in 1988, when we began planning this booklet, became a burning issue in the 1989 New York City mayoral race. During the summer of 1989, hospital workers, fighting for a better contract, continually pointed to the city's overcrowded hospitals. Their frustration over not being able to provide quality care to all patients--including thousands of PWAs--made the improvement of their salaries and working conditions an acute issue for our community.

Trade unionists and the lesbian and gay community can forge working coalitions on many other issues. This booklet only suggests beginnings and reports on the experiences that have made a difference. Throughout our research we were treated with generosity and respect by union staff, officials, and rank and file activists. We were warmly welcomed, and we look forward to continued cooperation. We hope that our efforts will inspire trade unionists to make gay and lesbian issues an important aspect of labor's agenda.

THE BASICS: NON-DISCRIMINATION CLAUSES

In New York City, discrimination in employment based on sexual orientation is against the law. The Human Rights Law, won in 1986, makes it possible for gay and lesbian victims of employment discrimination to file an official complaint with the New York City Human Rights Commission. The Commission investigates and prosecutes complaints against employers who fire, fail to promote, underpay or harass workers because they are gay. It has won reinstatement, promotions, and backpay for gay and lesbian complainants.

However, even in New York City, where the Human Rights Law provides gay and lesbian workers with basic protection, unions can do more. The Human Rights Commission's case load is enormous, and filing a complaint can be a wearisome and frustrating process. Gay and lesbian union members who suffer discrimination should be able to pursue their complaints through the standard union grievance procedure as well. They should be able to call upon their stewards and staff representatives to defend them against unfair treatment, and the union should aggressively pursue such treatment as a violation of the contract.

Non-Discrimination Clauses are standard features of many collective bargaining agreements. A typical Non-Discrimination

Clause states that the employer agrees not to discriminate because of race, color, sex, religion, age, physical handicap, marital status, national origin, or creed.

However, Non-Discrimination Clauses do not automatically protect employees from discrimination because of **sexual orientation, sexual preference, or affectional preference**. Explicit language about sexual orientation must be written into collective bargaining agreements before non-discrimination of gay and lesbian union members is safeguarded. A few New York City local unions already have Sexual Orientation Non-Discrimination language in their contracts.

--The American Federation of Teachers (AFT) Local 3882's agreement covers 1,500 clerical and technical workers at New York University.

--Oil Chemical and Atomic Workers (OCAW) Local 8-149 has non-discrimination clauses in contracts with five non-profit organizations (such as New York Committee on Occupational Safety and Health--NYCOSH).

--International Brotherhood of Teamsters (IBT) Local 840's contracts with about two-thirds of the warehouse, white collar and light manufacturing shops it has organized contain sexual orientation (or preference) non-discrimination language.

--The American Guild of Musical Artists (AGMA), with headquarters in New York City, has required an affectional preference clause in its artist's contracts (used throughout the country) since 1983.

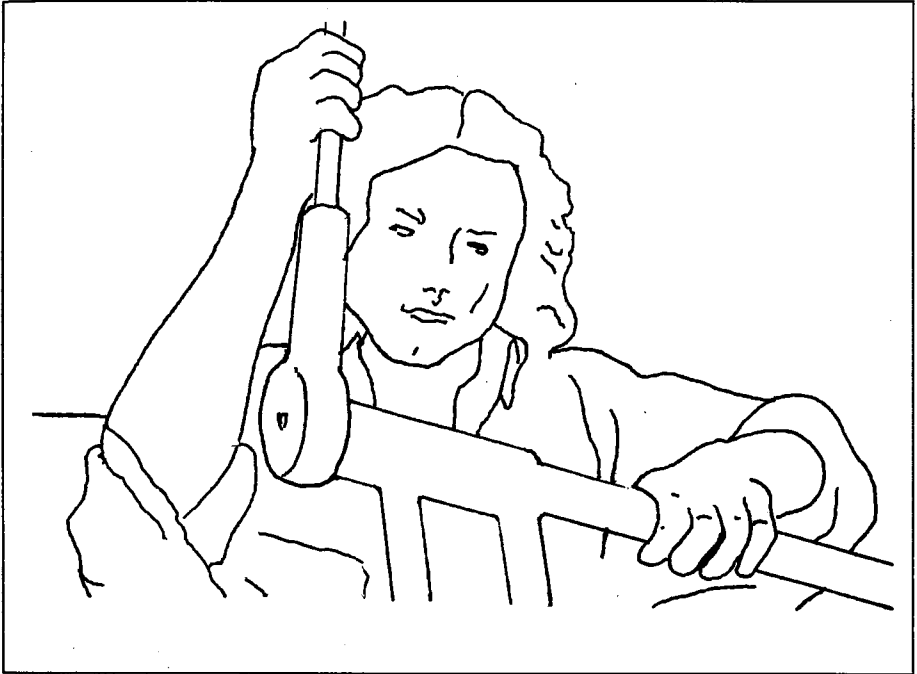
Many employees of the federal government who work in New York City also have non-discrimination language in their contracts. The National Treasury Employees Union (NTEU) in its contract with the U.S. Department of Health and Human Services and the American Federation of Government Employees (AFGE) have sexual preference non-discrimination clauses.

Several international unions have recently adopted union-wide policies affirming the rights of lesbian and gay members. The Initiation Procedure for members and officers outlined in the Constitution and By-Laws of the SEIU requires non-discrimination. The 1988 International Convention of the AFT adopted a sexual preference anti-discrimination resolution. The 1988 American Postal Workers Union (APWU) convention amended their constitution to prohibit discrimination based on sexual orientation. The 1988 United Food and Commercial Workers (UFCW) International Convention resolved to encourage locals to include sexual orientation non-discrimination clauses in all of its collective bargaining agreements.

Members of unions whose internationals have made policy commitments on non-discrimination can quote these statements to their negotiators. The statements are persuasive evidence of the urgency of including such language in new contracts. All union members can advise their representatives of the example of the AFL-CIO's resolution on non-discrimination adopted at the 1989 convention. Adding the phrase sexual orientation (or sexual or affectional preference) to the standard non-discrimination language does not have to be a matter of hard bargaining. In New York City it can be introduced as a simple updating of civil rights policies, an affirmation by the employer not to violate the Human

Rights Law. It costs nothing, and provides the employer with an opportunity to graciously grant a contract provision necessary to many workers.

Should the employer balk at adding this language, there is the alternative of inserting less explicit phrasing into the non-discrimination section: "The Employer and the Association will comply with applicable Federal, State and City laws prohibiting discrimination." (Article 15, New York State Nurses Association and Mount Sinai Hospital, 1986-1989). This clause would include the Human Rights Law and can thus be used to effectively safeguard the rights of lesbian and gay workers through the union grievance procedure.



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ORGANIZING A GAY COMMITTEE IN THE UNION

Ad hoc or issues committees are a vital aspect of local union life. Rank and file members of affirmative action, grievance, social services, and foreign policy committees study the issues. By regularly reporting on their work to the membership, they keep everyone informed on the progress of the programs they are advocating. The proposals that they make can eventually be incorporated into union policy. The union newsletter, workplace bulletin boards, and "New Business" time on the local meeting agenda are all traditional means used by union members who want to form committees to deal with their special concerns.

Unfortunately, many of us do not feel that we can employ the regular union apparatus to announce our interest in working on gay and lesbian concerns. Homophobia is a daily fact of life in most workplaces. Gay and lesbian union members may very well not want their sexual identity to be known by their co-workers. Although we are everywhere, we often feel the need to be invisible about it. Many of us feel vulnerable among our co-workers and would rather not speak out when our rights are threatened or biased comments are made. Yet, if we don't make our presence known, we'll never meet our allies. We'll have a tough time making the union understand the importance of our issues.

Only a few New York City local unions have functioning gay and lesbian concerns committees. Co-workers who have come out to each other sometimes work together around negotiations, or they keep sympathetic straight union leaders in touch with their concerns on a more casual basis. But coming out publicly at the workplace is a serious step that may require a testing of the waters before the union newsletter or bulletin board is used to make a full blown meeting announcement.

It might make sense to assess your union's willingness to deal with lesbian and gay concerns by requesting the organization to make a contribution to your mileage in the Gay Men's Health Crisis AIDS walk, an annual fundraising event. Participants in the walk are both straight and gay, so your request is not necessarily a declaration of sexual identity. Besides, local unions often make financial donations to worthy causes. You might also want to sign up co-workers' pledges. As you collect their donations, you might very well learn who else at the job is sympathetic to these issues, and you will also find out which stewards and representatives are open to bringing gay and lesbian issues to the agenda. Remember that, as in the case of non-discrimination clauses, several international unions and the AFL-CIO itself have made strong statements against bias. Quoting these statements can be helpful.

Going public and setting up a formal committee is the best way to organize. While an informal network can draw on existing friendships on the job, an official group will be more effective in involving all gay and lesbian co-workers. They may not necessarily be your workplace friends, but they may be people who are able to make a valuable contribution. When the Gay Teachers Association (GTA) started announcing its meetings through the official United

Federation of Teachers (UFT) newsletter in 1989, the turnout for meetings almost doubled. Similar announcements in the *Public Employee Press* have drawn dozens of District Council 37 members to monthly meetings at the Lesbian and Gay Community Services Center.

Gay and lesbian union members who have organized as an official special interest group have initiated some powerful actions. In June 1982 the Gay and Lesbian Caucus of District 65/UAW's *Village Voice* local put on the bargaining table and won spousal equivalent health benefits. Gay and lesbian members of District Council 37 AFSCME organized a letter writing campaign advocating domestic partner benefits. They succeeded in pressing the union to adopt this demand for the city wide contract. Now they are moving towards official recognition as a union-wide committee.

The Gay Teachers Association has been active since 1977. As a plaintiff in the pending lawsuit concerning domestic partners against the New York City Board of Education, described below (pp. 24-27), GTA joins three teachers and their partners in suing for equal medical and dental benefit coverage. The GTA meets every month of the school year at the Gay Community Center, sponsors a student essay contest, marches as a contingent in the annual Gay Pride parade, distributes buttons, T-shirts and a monthly newsletter, and offers support (with a pledge of "closet rights respected") to all lesbian and gay school personnel at all school levels.

After the suit was filed, GTA delegates met with UFT officials to let their leaders know that gay and lesbian city schoolteachers wanted support within the union structure. With the backing of

AFT policy and citing estimates that gays comprise at least 15 per cent of the teaching workforce, they won some significant concessions. Union officials agreed to: 1) Sponsor workshops (as part of the union's program of membership education) on homosexuality in a multicultural system; 2) List monthly meetings of GTA in the calendar of the union newsletter *The New York Teacher* ; 3) Publish the Board of Education's sexual orientation non-discrimination clause as part of the UFT By-Laws and in the preamble to the next contract; 4) Publish a special supplement for Gay Pride Month (June 1989) in the *New York Teacher*.

Thus emerged the first union newsletter ever to focus special

With the backing of national union policy, and citing estimates that gays comprise at least 15 per cent of the teaching workforce, gay teachers won significant concessions.

attention on gay and lesbian issues. It was to have been modelled on the union's centerfolds for Women's History and Black History Month, but the supplement was reduced just before press time to two pages instead of four and placed towards the back of the paper with an editorial disclaimer. Nevertheless, GTA members proudly distributed copies of the Gay pride supplement as they marched in the Gay Pride parade.

The Gay Pride supplement in the *New York Teacher* is an important milestone for the labor movement. It is the first special section of a union newspaper to treat gay history and life thematically and sympathetically. With its book reviews of youth

novels treating gay and lesbian themes, its profiles of important gays and lesbians in history (such as Walt Whitman, Gertrude Stein, and civil rights activist Bayard Rustin, an early political ally of AFT founders) and its lesson plans for anti-bigotry classroom exercises it is a valuable teaching tool. It demonstrates that important changes can be achieved when lesbian and gay advocates organize in the labor movement.

DOMESTIC PARTNER RIGHTS: WE ARE FAMILY

Equal rights and benefits for domestic partners is an issue whose time has come in New York City and in several other cities in America. Wherever legislation has passed giving equal rights to gays as individuals, the lesbian and gay movement has gone on to raise the issue of equal rights for gay families.

What Rights Do Families Have?

Members of recognized families have a wide variety of rights and receive many diverse benefits, because they are recognized as people having special ties and responsibilities to one another. Many of these benefits are established by federal, state and local law. Others are given by the private sector but are based on legally-defined family relationships. For New Yorkers, these benefits include:

Finance: tax deductions for spouses and children, and consumer discounts such as "family" rates.

Housing: apartment succession rights in rent controlled, rent stabilized or public housing. Consideration as an economic unit by banks and government agencies for housing loans.

Healthcare: the right to make medical and legal decisions for each other when a family member is mentally or physically incapacitated and visitation rights in hospitals, mental health facilities and prisons.

Inheritance: automatic inheritance rights when a family member dies without a will.

Parenting: parental rights for jointly-raised children, and in the case of a family break-up, custody or visitation rights.

Employment: a wide variety of employment-related family benefits ranging from health insurance to bereavement leave.

What Happens When Domestic Partners Are Denied Family Rights?

Until recently, all these rights and benefits were denied to lesbian and gay families no matter how long they had been together and how much they supported each other both emotionally and financially. Serious injustices have resulted from this denial.

Sharon Kowalski and Karen Thompson are a lesbian couple who had lived together for years in a jointly-owned home. When

Sharon suffered severe head injuries in a car accident, Karen told Sharon's parents about their relationship and expressed her desire to take care of Sharon. Sharon's parents were horrified. They took custody of their adult daughter, removed her to a distant health care facility and denied her rehabilitation. They refused to let Karen even visit Sharon. Due to her brain damage Sharon had difficulty making her own wishes known.

Only a national movement to "Free Sharon Kowalski" and the clearly detrimental decisions her parents made regarding Sharon's health care got a state court judge to assign her custody to a third party. Sharon then resumed rehabilitation therapy and Karen's visitation rights were established. Since therapy began, Sharon has repeatedly asked for Karen, a loved one whose presence she had been denied for *three and a half years* because their family was not legally recognized.

Sharon Kowalski was a union member and Karen Thompson is a union activist. In the last job Sharon had before her accident, she had been a member of the Minnesota Federation of Teachers, part of the AFT. Thompson, as a professor in the Minnesota State University system, is a member of a faculty union affiliated with the National Education Association (NEA). Before this crisis, she had not been active in her union. But now she is a member of the union's Lesbian and Gay Caucus which is raising domestic partner issues for contract negotiations.

Similar tragedies have struck many gay male couples in which one partner had AIDS. Relatives can exercise their legal rights to forbid the lover from visiting the hospital. And instead of bringing love and comfort to the grieving partner, they can even exclude him

from funeral arrangements and refuse to list him as a surviving partner in obituary notices.

If there is no will, the state automatically allocates the belongings of the deceased to legal relatives. Many such relatives do not correct this injustice by offering items or funds to the lover. Blood relatives have also challenged the inheritance rights of a surviving lover, even when he is named in the will.

They charge that the will was signed under the "undue influence" of the lover or allege that the person with AIDS was not in his right mind due to his illness whether or not there is any real evidence to substantiate these charges because they cannot accept their family member's homosexuality.

Even when kin are supportive, inheritance tax laws favor relatives in ways that hurt unmarried couples. One gay man with AIDS left all his possessions to his lover but designated his daughter to receive them should the lover die. But because the partner was not a legal relative, the estate was fully taxed. When the lover also died of AIDS, and the possessions passed to his partner's daughter, the Internal Revenue Service treated it as another non-familial transfer and levied another round of taxes. A far smaller legacy was left than if the state had recognized that her father's partner was part of their family.

Lesbian and gay families sometimes include children. These may be children from a prior marriage or the couple may have arranged to have a child together through adoption or alternative insemination. In any case, the state will recognize only one of the partners as a legal parent. As a result, schools, hospitals and other

institutions that deal with the child tend to recognize only one parent.

This problem can become a crisis if the legal parent dies. The surviving partner has no legal right to keep the child even though that child desperately needs his or her second mother or father at that moment. The legal parent's relatives have tried and succeeded in taking children away from surviving domestic partners, even forbidding them to visit the child they have raised.

Domestic Partners: A New Definition of Family

In some cities in the United States there are laws which define unmarried couples and their children as families who should receive the same rights and benefits as married couples and their children. There are also several collecting bargaining agreements that make similar provisions. While the earliest contract, at the *Village Voice*, adopted the term "spouse equivalent," most municipal laws and labor contracts are now using the term "domestic partner" to describe the members of the couple.

In most cases, the couples file an affidavit as domestic partners with City Hall or they register at their employer's Personnel Office. Usually they must have lived together for a period of time and must state that they are sharing the necessities of life. In a city like San Francisco where the housing market is tight, a modified requirement would allow each partner to maintain an apartment as long as one apartment is shared. This should also apply in New York City.

In the following pages, we will describe in detail the definitions of domestic partnership that are now being used for various benefits.

Who Would Benefit from Domestic Partner Rights?

To protect their families, gay and lesbian couples need full equality in rights and benefits. These crucial rights would also protect the many heterosexual couples who for a variety of reasons choose not to marry. Such couples can have difficulties similar to the problems of lesbian and gay families.

Some heterosexual couples suffer significant economic penalties if they marry. Elderly couples and disabled persons can lose their Social Security retirement or Supplemental Security Income when they marry. These couples need domestic partner rights just as much as lesbian and gay couples. All across this country, and particularly in urban areas, there are many people who live together but cannot marry. In cities where domestic partner legislation is being proposed, broad coalitions in favor of these reforms are emerging, composed of lesbians, gays, unmarried straights, the elderly and people with disabilities.

In recent years the lesbian and gay rights movement has worked in concert with some of these allies and has been winning the fight for domestic partner laws. By organizing along with unmarried heterosexual couples in their unions, lesbians and gay men have also won some collective bargaining victories in domestic partner employee benefits.

LEGAL BREAKTHROUGHS

On the legislative front, breakthroughs have been coming through rapidly. The following was the status of domestic partner rights as of March, 1990.

Front Page News in New York City

In New York City, the question of domestic partner benefits for municipal employees was a controversial issue in the 1989 mayoral race and as a result was front page news in all the major dailies in the summer of 1989. It all began when every Democratic mayoral contender publicly stated some degree of support for domestic partner rights at a Democratic candidates forum in the Lesbian and Gay Community Services Center. Republican candidates Rudolph Guliani and Ronald Lauder opposed it both on principle and because of costs.

While all the Democrats said they favored the concept, David Dinkins, as Manhattan Borough President, was the only one who had publicly supported partner rights as early as 1986. Dinkins had "unofficially" instituted bereavement leave benefits for domestic partners in his own office. He was the only candidate who unconditionally supported the extension of health benefits to domestic partners of municipal workers.

As City Comptroller, Harrison Goldin had tried to implement *official* domestic partner bereavement leave in his office in early 1989. He supported a lesbian employee who tried to get paid leave when her lover died. She challenged the city's bereavement leave

policy as a violation of the city's Gay Human Rights Law and received a favorable initial ruling from the city's Law Department. But Deputy Mayor Stanley Brezenoff overruled the lawyers and refused to change the policy.

Mayor Koch had opposed domestic partner benefit proposals in bargaining talks with city unions in 1987 and 1989. Only after all his Democratic opponents came out publicly in favor of the issue did the Mayor suddenly announce an Executive Order on partner rights on August 7.

The Executive Order granted bereavement leave with pay in the case of the death of a city employee's domestic partner or that partner's parent or child. City employees can now register their partnerships with the city's Department of Personnel after they have lived together for one year. Backed by the active Lesbian and Gay Issues Committee, the major municipal union, District 37 (AFSCME) made sure this benefit was incorporated in the contract as well.

Late in the race, Koch pledged his administration's support for the extension of health benefits in the next round of bargaining. But he also made cost estimates in the range of "millions of dollars" and stated that other workers' benefits would have to be cut to finance this new benefit. He offered no factual basis for the costs. Fortunately, the union rebuffed his zero-sum game strategy. They refuse to accept the argument that benefit cuts will be the necessary price of this gain in the 1990 contract.

In order to make domestic partner registration and bereavement leave more secure than a reversible Executive Order, City

Councilmembers Maloney, Messinger, Friedlander and Greitzer have drafted legislation for the winter of 1990.

Partner Wins Apartment Succession Rights

The cause of equal family rights in New York received a tremendous boost from a favorable decision in the ACLU lawsuit of *Braschi v. Stahl Associates* in July 1989. The New York Court of Appeals (the highest court in New York) ruled that the long-time gay partner of a man who died of AIDS had the right to the lease on his partner's rent-controlled apartment. Judge Vito J. Titone's majority opinion stated that:

[T]he term family...should not be rigidly restricted to those people who have formalized their relationship by obtaining, for instance, a marriage certificate or an adoption order. ...[T]he intended protection against sudden eviction...should find its foundation in the reality of family life. ...[A] more realistic, and certainly equally valid, view of a family includes two adult lifetime partners whose relationship is long-term and characterized by an emotional and financial commitment."

Judge Titone's definition of family was a major breakthrough for gay, lesbian and straight domestic partners and for extended family members of tenants in 200,000 rent-controlled New York City apartments. Tenant rights and gay rights advocates are now working in the City Council and State Legislature and housing authorities to have this concept applied to New York City public housing, the more than 1 million rent-stabilized apartments, and buildings that the city is administering after having seized them from landlords who didn't pay their taxes.

So far the Housing Authority has issued new regulations that mandate a broad definition of family for succession rights in rent-stabilized apartments. But the landlords are challenging these regulations in court, and they will not take effect until a judge rules on the case.

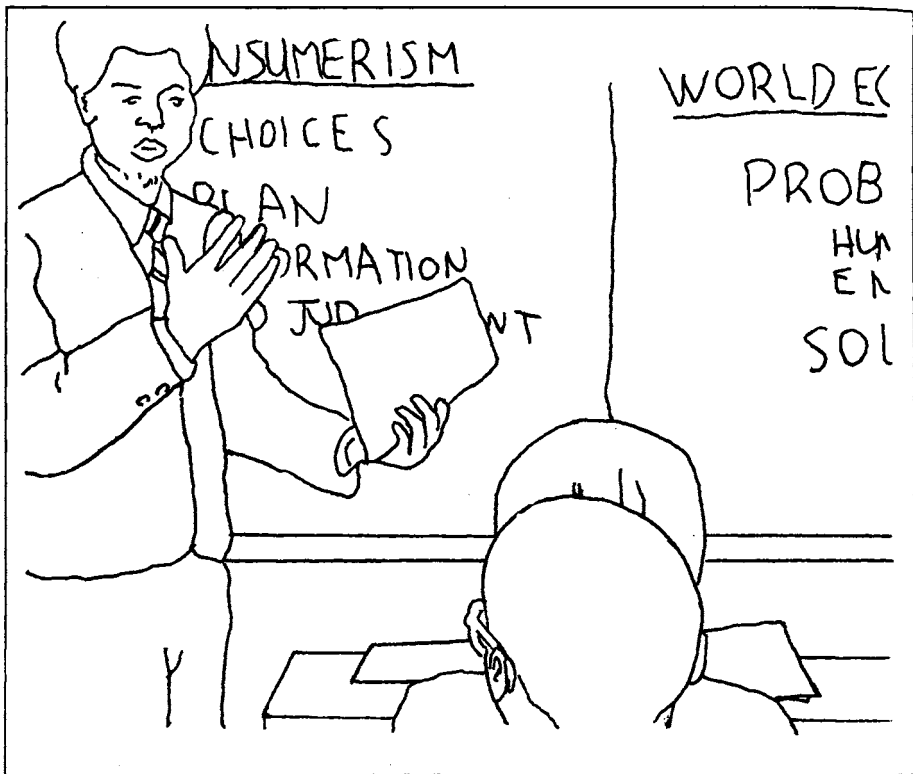
Ironically, one difficulty in the Braschi case, itself, is that Miguel Braschi and Leslie Blanchard were such a stellar example of a long-term, openly gay couple. They had lived together for 11 years; had joint checking accounts, safety deposit boxes, credit cards and wills; and were accepted as a couple by both of their families. It is not clear what would be the *minimum* number of years together, amount of financial commingling or degree of openness that should qualify domestic partners for apartment succession rights. Meanwhile, a marriage certificate still ensures these rights instantly. Nevertheless, the general principle espoused by the Braschi decision has greatly strengthened the gay teachers' lawsuit now pending before New York State Judge Carla Moscovitz.

Union Teachers Sue NYC for Partner Benefits

In this Lambda Legal Defense & Education Fund case, three gay teachers, one male and two female, their domestic partners, and the Gay Teachers Association (GTA) are suing for health insurance and other employee benefits for the domestic partners of New York City teachers and other Board of Education employees. (The GTA, now a force within the United Federation of Teachers, is described in the section on Gay Committees earlier in this booklet.)

Ron Madson, one of the plaintiffs, had never been an activist before the case. He and his partner, Richard Dietz, had been together 19 years, "living comfortable middle-class lives." But when Ron and Richard took care of a friend who had AIDS, their feelings about activism changed. They were inspired to go to a GTA meeting, learned about the case, and decided to become plaintiffs.

The benefit policies of the Board of Education, a joint institution of New York State and New York City, raise issues under both state and city law. The teachers argue that the denial of domestic partner benefits constitutes discrimination based primarily on



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orientation (in violation of city law). And even though there is no statewide gay rights law, the state constitution provides for equal protection for all classes of state employees. Lambda is arguing that teachers with domestic partners constitute such a protected class.

The state constitution does not cover private sector workers; thus, litigation is a less viable tactic for those workers, according to Paula Ettelbrick, the Lambda attorney. She thinks that the most effective way for private employees to win domestic partner benefits is to bargain them collectively.

Lambda sees this case as part of a long-term strategy. If the gay teachers win, New York City and State will be forced to use their clout as huge employers to negotiate domestic partner policies from major health insurance companies. This might lead the insurance industry to consider offering similar coverage to smaller, private employers who either want to respond to union demands or may be initiating coverage on their own.

However, insurance companies and their clients then will be facing a tax problem. While private sector benefits for employees and their legal dependents--spouse and children--are tax deductible for both companies and workers, benefits for domestic partners may be taxable and might jeopardize the tax-exempt status of the entire plan. (But this is not a problem for joint union-management health and pension funds. This will be discussed more fully in the section, later in this booklet, on collective bargaining.)

Once Blue Cross and other companies issue major policies covering domestic partners, the industry would likely join

employers and domestic partner advocates in lobbying the Internal Revenue Service to acknowledge domestic partners as legal dependents. This might lead to claiming domestic partners as dependents for income tax purposes and as family members for the purpose of inheritance taxes as well.

The movement for domestic partner rights also points up the injustices of private, employment-based health insurance and provides another component to the movement for national health insurance with coverage for all.

Granted, these are grand plans, but the chances of winning the teachers' lawsuit are better now than anyone would have dreamed in 1988 when the suit was first filed. While the GTA has not yet gotten formal union support for their case, the UFT has agreed to put both domestic partner bereavement leave and health benefits on the bargaining table with the Board of Education. Furthermore, the Braschi housing rights victory, the Mayor's 1989 Executive Order and growing political and union activism on this issue all enhance the chance for a favorable ruling in this case.

Public Sector Partner Rights

Around the Country

Despite the recent flurry of activity on this issue, New York City still lags behind many other municipalities. Seven cities have already legislated some form of domestic partner benefits and rights: Los Angeles, San Francisco, Berkeley, West Hollywood and Santa Cruz in California, as well as Madison, Wisconsin and Takoma Park, Maryland. All these cities except San Francisco have implemented bereavement leave and family illness leave for city employees with domestic partners. (Three cities in

California--Berkeley, West Hollywood and Santa Cruz--are providing health insurance for domestic partners and their children. These cities' plans are discussed below, pp. 56-58.)

Seattle

Ettelbrick's strategy is advancing in Seattle. The Seattle Human Rights Department ruled favorably on a lesbian city worker's request for health insurance for her partner of six years. The department agreed that failure to provide insurance for Dee Smiley's lover constituted discrimination based on marital status and violated the city's Fair Employment Practices law. It therefore concluded that *all* Seattle employers, both public and private, *must* offer spousal health and dental benefits to partners.

Insurance carriers and some large corporations vigorously opposed this ruling, threatening to defy the law, drop coverage for Seattle city workers, or countersue the city. The companies were concerned about costs and about the tax exempt status of their benefit plans. Mayor Charles Royer has suspended implementation of the ruling until the IRS clarifies the tax implications of this change. This IRS ruling will have national consequences. Meanwhile the Seattle City Council has approved domestic partner bereavement and family illness leave.

San Francisco

The San Francisco Board of Supervisors has also met opposition in an attempt to create a registration system, hospital visiting rights for all domestic partners and employee benefits for domestic partners of municipal workers. Shortly before the measure was

for all domestic partners and employee benefits for domestic partners of municipal workers. Shortly before the measure was passed and signed into law, a San Francisco *Examiner* poll revealed solid majority support (58% vs. 35%) for the law among gays and straights, every religious group and people of every marital status.

Nevertheless on July 5, the very day that the law was to take effect, a loose coalition of fundamentalist Christians, rabbis, Roman Catholic clergy and Phyllis Schlafly's Eagle Forum filed enough petitions to force the ordinance onto the 1989 ballot. This meant that the law could not be implemented unless and until a referendum ratification. It was voted down by a thin margin of 2,000 in the November election, but the issue will be placed before the voters again in 1990.

Los Angeles

In Los Angeles, a City Council Task Force on Family Diversity issued a massive study of the contradiction between current laws and policies and the social reality of family diversity. The study covered single-head-of-household, undocumented immigrant, divorced, remarried, extended and homeless families and families with disabled members as well as lesbian, gay and straight domestic partner families. It also made recommendations on domestic violence, adoption and foster care.

As a result of this study, Los Angeles implemented domestic partner bereavement leave and paid family illness leave. The city is also proposing in negotiations with all of its municipal unions a four-month leave without pay to care for a newborn or

newly-adopted child and severely ill family members, including domestic partners.

Washington, DC and Philadelphia

A City Council Commission in Washington, DC has been studying the issue of domestic partner rights and is due to issue its recommendations in the Spring of 1990.

In Philadelphia, after AFSCME was unsuccessful in bargaining for domestic partner benefits in 1986, a gay city employee sued for the benefits. As a result, the Mayor's Commission on Sexual Minorities recommended that partner health, leave and pension benefits be extended, but only to gay and lesbian couples because they cannot legally marry.

Partner Rights in Other Countries

At least two domestic partner lawsuits have been filed in Canada, one for health benefits and one for pension benefits. Karen Andrews, a lesbian librarian, filed a union grievance in 1985 to get employer-paid health insurance for her lover of six years who is also the co-parent of her children. She felt she had a strong case, and the Canadian Union of Public Employees agreed. Her contract prohibited discrimination based on family arrangements or marital status and the library was already providing insurance for unmarried heterosexual couples.

Canada has national health insurance so Karen's partner, Mary, had basic coverage paid for by the government. But she would have had to pay for dental and drug coverage herself, while spouses of library workers got complete coverage paid for by the employer.

The issues in the case are 1) whether the province (Ontario) or the employer will pay for Mary's basic coverage, 2) whether Mary or the employer will pay for dental and prescription plans and 3) whether Karen and Mary's family will be recognized as such.

After years of delay, the employer finally agreed to pay for the coverage, but the Ontario Health Insurance Plan (OHIP) refused

Holland and Sweden both have domestic partner registration, which carries with it some of the benefits of marriage, including health benefits. In October 1989, Denmark went one step further and legalized gay civil marriage.

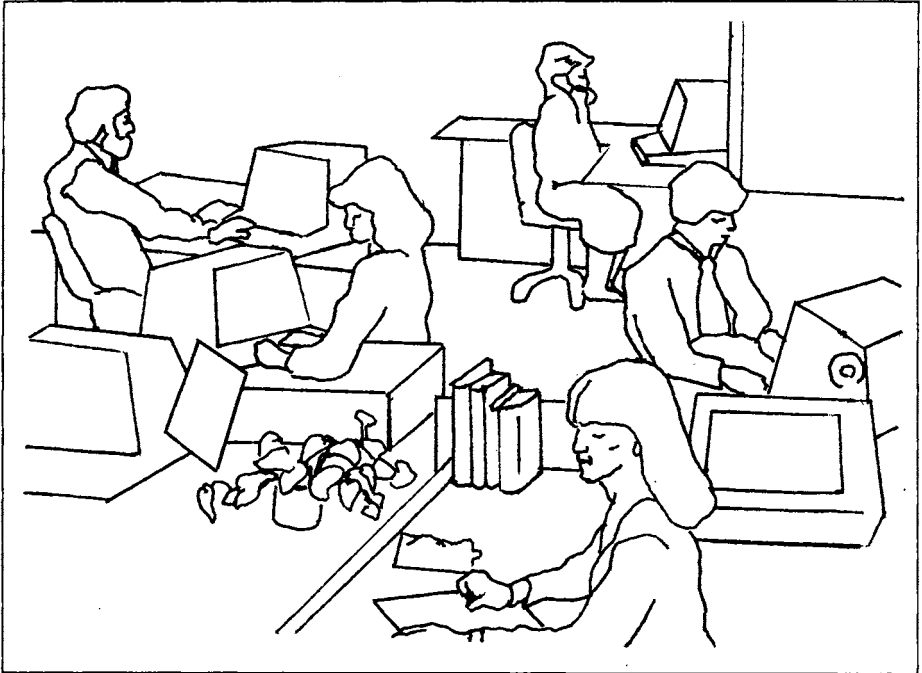
to implement it. Meanwhile Ontario had enacted Bill 7 in 1986, prohibiting discrimination against lesbians and gays. In February 1988, Karen and her union decided to switch tactics, stop the grievance and challenge the benefits policy of OHIP as a violation of Bill 7. So far the union has committed to financing the suit through appeals up to the provincial Supreme Court.

The same year that Karen Andrews took her case to court, Jim Egan and John Nesbit of British Columbia decided to celebrate their 40th anniversary by suing for spousal pension benefits from the Canadian Old Age Security system. They argue that defining "spouse" as someone of the opposite sex constituted sex discrimination. This has been outlawed by Canada's 1986 Charter of Rights and Freedoms. This Charter prohibits most kinds of

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discrimination, although it does not specifically list sexual orientation.

If he were considered a spouse, John Nesbit, as the younger partner, would be entitled to a \$90/month supplement to Jim's (Social-Security-type) pension until John himself reached retirement age (65) and got his own pension payments. The cost of discrimination in this case comes to more than \$6,000 (\$90/month for six years) because John is six years younger than Jim.



David Mashni

HOW TO BARGAIN FOR PARTNER RIGHTS

Private Sector Partner Rights in NYC

In addition to the cities mentioned above, thirteen workplaces that we know of in the New York metropolitan area have negotiated some kind of domestic partner contract clause. In fact the longest-standing domestic partner health coverage policy in the entire country was negotiated by District 65/UAW at the *Village Voice* in 1982. In the next section, we will describe attempts, both successful and unsuccessful, to negotiate domestic partner benefits in New York City and give some guidance on how to organize on this issue in your union.

Which Benefits Should Domestic Partners Get?

Any benefit that is available to spouses and children of employees should be available to domestic partners and their children. Here are some examples of the wide variety of such benefits.

A.. Consumer discounts and recreational facilities

1. Cheaper transportation for families of airline, railway and bus company employees.
2. Discounted prices for employer's goods or services of all kinds for employees and their immediate family members.

3. Access to or discounts for employer's recreational facilities such as gyms and pools at colleges and universities.

B. Counseling and paid leave benefits

1. Family members' access to the company's social workers for counseling and referral services for off-the-job problems (Employee Assistance Programs). These range from substance abuse services to help in finding care for aging parents.

2. Paid sick leave when family member is ill. Unpaid extended sick leave to care for illness in family.

3. Paid bereavement leave when family member dies.

4. Financial and job placement assistance when a spouse relocates along with an employee who is transferred.

C. Health, pension and educational benefits

1. Health insurance coverage for domestic partner and partner's children.

2. Surviving spouse pension benefits.

3. Eligibility for employer sponsored scholarships for children.

4. Tuition benefits for family members (primarily available for employees of educational institutions).

5. Special surviving spouse death benefits for domestic partners of police officers, firefighters and other city employees killed in the line of duty.

Preparing to Bargain

The first step in bargaining for domestic partner benefits is to develop the list for *your* workplace of all the benefits available to family members of employees. By estimating the annual dollar value of each benefit, you can calculate the full extent of economic discrimination against co-workers with domestic partners. It is also important to point out the *emotional* costs of this unequal treatment. These arguments can be used to make the case for equal benefits to both the union negotiators and management.

You should also make a list of the union benefits that are available to families of union members. These may include:

1. Access to Member Assistance Program counseling and referrals, like free legal services.
2. Access to union-sponsored education and training.
3. Eligibility for union-funded scholarships.
4. Discounts on bus tickets for demonstrations in Washington, DC, or lobby days in Albany that are endorsed by the union.

Getting the union to recognize our families sets a good precedent for getting management to do the same. In addition, if the health or pension plans are jointly administered by management and the union, you will need to organize support from the union plan

administrators before you begin negotiations with management. (See section on Health Benefits, later in this section.)

Organizing Support Among the Members

The ultimate goal is for domestic partners to get all the benefits that spouses now receive. But this is not likely to be achieved in one round of collective bargaining. You will need to organize support and set priorities. The more membership and official union support you have for these demands, the better your chances of winning. During the year before the contract expires, you should

- 1) establish a Committee on Domestic Partner Issues, or
- 2) put domestic partnership on the agenda of whatever committee deals with family issues, such as the Work & Family Committee or the Women's Issues Committee, or on the agenda of the committee that is preparing bargaining demands.

In addition to raising the issue, you will need to get domestic partner rights advocates onto the relevant pre-bargaining committee *and* the Negotiating Committee.

The pre-bargaining committee should make two priority lists of domestic partner benefits. One list would identify the benefits that the committee thinks will be *easiest* to win from management. This will probably include the cheaper and more symbolic benefits like bereavement leave and access to the gym. The second list will have the family benefits that the committee thinks are the *most important* to union members who have domestic partners. This is

likely to include the more costly benefits like health insurance and pension.

But in order to make a final determination of which benefits are the most important, the committee needs to hear from as many domestic partners as possible. This can be done through a membership survey and networking by word-of-mouth.

The Survey

Many unions survey their members before developing bargaining demands to collect demographic information like sex, race, job classification, and marital and parental status. Be sure that on the form, one option for marital status is: Domestic Partner (unmarried but living together, gay or straight). If someone checks this category, there should be a follow-up question in the survey where the respondent picks from a list the most important family benefits they would like to have for their partner (and children, if any). Because of prejudice against lesbians and gays, it is *crucial* that members believe that the *individual* survey results will be kept confidential.

These surveys usually also ask *all* members to indicate which issues they support. One of the issues listed should be: Equal family benefits for domestic partners--committed couples who are not married. Union activists who are circulating the surveys should be prepared to explain this issue to members, a number of whom will never have heard of this concept before.

Networking by Word-of-mouth

Many gay and straight workers with domestic partners are "out" (publicly known) among at least some of their co-workers. Union activists should approach co-workers who are "out" to solicit their opinions on domestic partner benefits, using the same sensitivity that would be appropriate for discussing any private family matter.

Often gay and lesbian union members are "out" to each other even when they are not known as homosexuals by most straight co-workers. Openly gay union members should be encouraged to spread the word along the "gay grapevine" about this bargaining issue and to motivate co-workers to fill out the survey. This may also be a good time to organize a Lesbian and Gay Rights

During bargaining preparations lesbian and gay union members (openly identified or not) should volunteer for decision-making committee posts and seek election to other leadership positions within the union.

Committee within the union.

During bargaining preparations lesbian and gay union members (openly identified or not) should volunteer for decision-making committee posts and seek election to other leadership positions within the union. As you will see from the following examples, one or two advocates on the bargaining committee can make a difference in winning these rights.

clauses were negotiated in 1987. A union activist single-handedly raised the issue and drafted the language.

There was little resistance to the concept at NYCOSH or the five other non-profits represented by OCAW: the Labor Institute, Council of International Public Affairs, White Lung Association (NY and NJ) and the Workers Resource Center. Bereavement Leave is an extremely low-cost item. Local President Mark Dudzic concluded, "[it] was a contractual component that was easy to negotiate."

Having set these precedents in the liberal non-profit contracts, OCAW was able to get the same clause at Barr Labs and Becton Dickinson, its multinational corporation plants, in 1988. At these plants, rank and file Work and Family Committees proposed spouse equivalent bereavement leave to the negotiators along with other family issues. In your union it may also make sense to try for bereavement leave first in the more "liberal" shops so that you can take on the more traditional worksites with sample contracts in hand.

New York State Nurses Association

NYSNA Staff Representative Gina Quattrochi was reviewing contract clauses with the Mt. Sinai negotiating committee in 1985. She suggested that bereavement leave apply to a nurse's "significant other" because "AIDS had raised my consciousness of the necessity and importance of having domestic partners covered by this clause. The Mt. Sinai workforce is in a younger age group, and the current policy didn't meet their needs."

Mt. Sinai management was concerned that one employee could have several partners in succession and that nurses might abuse the leave. "We said it's no worse than marriage and divorce in the traditional population," explains Quattrochi. The hospital wanted documentation, a death certificate, since the employee would have a different last name than the deceased. Paula Ettelbrick of Lambda Legal Defense & Education Fund indicated to Quattrochi that such proof is not generally required by employers for relatives, like aunts and sisters, who may have different last names than the employee.

In response to these arguments the employer agreed to the benefit and pledged not to require proof unless there was some other reason to believe that the employee was abusing the leave. For the purpose of this clause, "significant other" is defined as "a person with whom the employee has had a spouse-like relationship." To Quattrochi's knowledge, there have been no cases of alleged abuse since the benefit was instituted in January 1986. This did not surprise her because "It's generally a problem for gays to come out. Thus the chance of same sex couples abusing the benefit is low." Quattrochi acknowledges that winning this benefit at Catholic hospitals would be tough because of the church's positions on homosexuality and straight relationships outside of marriage.

District 65/UAW - Columbia University

Local leaders of the Columbia University clerical unit initiated the demand for spouse equivalent benefits by including "unmarried but living with partner" as a family option on the bargaining demand survey in 1987, according to Sally Otos, one of the District 65/UAW Local Officers. One of several proposals listed for

improving the health plan was "bargaining for spousal equivalent benefits." Based on the assumption that about 10% of the general population is gay, Otos said, "You'd think there would be at least 100 people (out of a bargaining unit of 1,100) who found it important," but less than 20 people checked this demand. As a result, domestic partner health benefits did not make it to the bargaining table.

But Otos and another gay member of the Negotiating Committee did push for spouse equivalent bereavement leave and sick leave within the committee and at the table with management. Otos describes the bargaining:

"Management belittled every other demand we made, but they knew better than to make light of AIDS and were silent about the spouse equivalent bereavement leave. We didn't use the word 'AIDS', but we would say, 'Some people are dying young. They are not married, but they have committed partners.' It helped that there had been a lot of AIDS activism on campus. At the end, the university agreed to it."

The union was not successful in winning the right to use sick leave to care for sick spouse equivalents, spouses or even children. "That made people angry," said Otos. A rank and file Work and Family Committee had done membership education and organized support for that demand as well as for child care subsidies, which the union did win. Otos believes it will take similar education and activism around spouse equivalent health benefits to generate enough support to bring the issue to the bargaining table.

District 65/UAW - Museum of Modern Art

The staff of the Museum of Modern Art are represented by the Professional and Administrative Staff Association (PASTA), which is affiliated with District 65/UAW. In 1987 the negotiating committee proposed both spouse equivalent health insurance and bereavement leave. Management said they had no problem with domestic partner benefits on principle. But locating and agreeing on an insurance plan turned out to be very difficult (as will be described in the next section). Because they did not dispute the concept, management did agree to bereavement leave for staff members with a spouse equivalent. To qualify for this benefit "requires a maximum of two years of a 'living together' relationship."

District 65/UAW - Legal Aid

Legal Aid attorneys are represented by the Association of Legal Aid Attorneys (ALAA), which is also affiliated with District 65/UAW. A lesbian lawyer filed a grievance in 1986 over her right to use bereavement leave for the funeral of her domestic partner's mother. Her contract's funeral leave covered the death of a mother-in-law and contained a sexual orientation non-discrimination clause. She lost the grievance because the arbitrator ruled that granting the leave would be a change in the contract, not just an interpretation of it. The arbitrator stated that such a change in the application of a family benefit would have to be negotiated.

During negotiations for the 1988 contract, the union proposed extending all family benefits, including insurance to domestic

partners. Legal Aid Society management raised ideological objections to validating non-marital and gay relationships. But an organized gay and lesbian caucus within the union was able to mount enough pressure to win a joint union-management committee to study all aspects of anti-gay bias in the Society's employment practices: "A joint management-union committee to be established to consider issues relating to discrimination against lesbians and gay men including but not limited to hiring, training, retention, promotion and employee benefits."

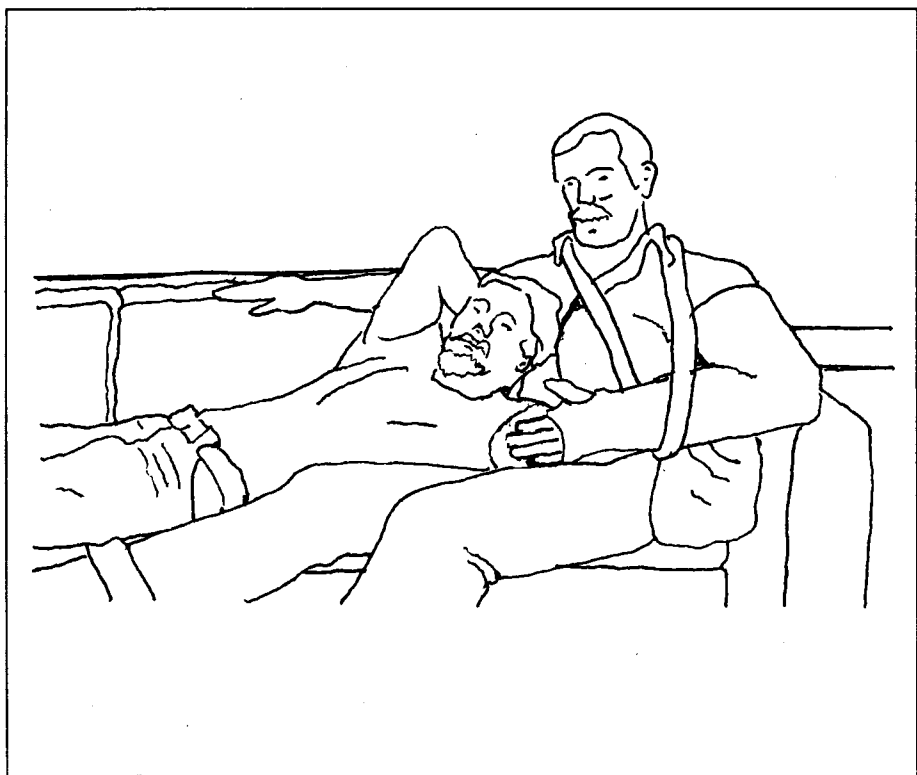
The general union experience is that almost all major new family benefits (for example, workplace child care centers) have been won only after a study by a joint committee with management.

Winning a joint study committee often feels like a defeat, as if management is stalling on the issue. You would prefer management to act immediately, of course. But the general union experience is that almost all major new family benefits (for example, workplace child care centers) have been won only after such a joint study. Winning complete domestic partner benefits may require a similar process. While many establishments will grant domestic partner leave *fairly* easily, health insurance means winning a victory not only over management's objections, but also over the objections of the health insurance industry.

HEALTH INSURANCE BENEFITS

District 65/UAW - Village Voice

The oldest spouse equivalent health insurance coverage was negotiated by District 65/UAW writers, editors and clerical workers at the *Village Voice* in 1982. Union activist Jeff Weinstein had dreamed of the idea in the mid-1970s but never thought it



David Mashni

would be realized in practice until he learned that the *Voice* had an unofficial policy of covering unmarried, co-habiting straight couples for health insurance. In 1981 Weinstein proposed that the policy be formalized in the next contract for both straights and gays. There was support from a lesbian and gay caucus that Weinstein helped organize in the shop, as well as from straight and gay members of the negotiating committee (of which Weinstein was an elected member).

The contract already included bereavement leave for the death of any person "with whom the employee has family-type relations."

Over the years about 10% to 15% of the Voice's workforce have registered their spouse equivalents. Currently there are 19 such couples out of 170 union members; half are straight and half are gay or lesbian.

But management initially opposed the idea of health coverage because they were afraid of that employees might cheat by filing for health benefits for friends who were not lovers. The compromise solution was to provide coverage for the current spouse equivalents of all current union members, but to require a one-year waiting period for domestic partners of new hires and for new relationships. Employees file a notarized affidavit stating that they are co-habiting spouse equivalents. When they file a confirming affidavit one year later, coverage commences.

Over the years about 10% to 15% of the workforce have registered their spouse equivalents. Currently there are 19 such couples out of 170 union members; half are straight and half are gay or lesbian. As for changes in spouse equivalents over time, "dropping or adding partners has happened more among the non-gay couples than the gay ones," remarked Weinstein. The non-biological children of co-parenting *Voice* employees are also covered when a worker is involved with a legal parent. This also includes one child who was adopted by a gay male couple in the same way that a straight couple's adopted child receives benefits.

Because the *Voice's* health coverage is a self-insured plan administered by the District 65/UAW Security Plan, it does not encounter the tax complications (described earlier) faced by private carriers. For this reason, all other things being equal, domestic partner coverage should be easier to obtain from union or joint union-employee health and welfare funds. This also applies to employees of unions who are often covered under the union's health plan. The issue has been raised by staff unions at Local 802 of the American Federation of Musicians and District 37 of the American Federation of State, County and Municipal Employees. But so far it has only been won at the Committee of Interns and Residents.

Committee of Interns & Residents Staff Union

CIR is a union of doctors-in-training which has negotiated a joint hospital-union health benefit plan for its members. The people who work for the union are also covered by this plan, and the staff union contract includes the clause "benefits shall be provided for spousal equivalents except where expressly prohibited by law."

But while union health plans don't pose the tax problems of private insurance plans, some union benefit funds are financially troubled because they have been slow to increase employers' contributions to the plan despite rapidly rising health care costs. If you are covered by a union health fund, you need to determine its financial status so that you will know in advance what kind of fiscal resistance you are going to be up against when you propose adding coverage for domestic partners.

It may be as difficult to win these benefits from union plans as from employers who are seeking insurance-related concessions, such as increased employee contributions or reduced coverage. Management proposals for health benefit cutbacks were one of the problems that faced union negotiators seeking spouse equivalent benefits at the Museum of Modern Art in 1987.

District 65/UAW - Museum of Modern Art

Sexual orientation had been included in the museum's personnel equal opportunity statement since 1978, and the Personnel Manual was incorporated by reference into the contract. As early as 1984, one of the union's local leaders, Charles Silver, had raised the issue of spouse equivalent health insurance. But both his co-workers and management had virtually dismissed it as a fantasy because no insurance companies known to them would consider such coverage.

By 1987, they were able to draw on the *Village Voice* plan experiences of their District 65/UAW organizer and they learned about successes and struggles in other cities. The membership bargaining survey included spousal equivalent benefits. With a

60% membership response to the entire survey, this proposal got as much support as other issues and was taken to the table.

Management had its own agenda for health insurance: quadrupling the deductibles and making employees pay for family coverage. They were considering leaving their current Major Medical carrier, Aetna, and agreed to ask all the bidding companies about spouse equivalents. They also agreed to specifically solicit a bid from Liberty Mutual Insurance Co., which had carried a domestic partner policy for the American Psychological Association since 1983.

Meanwhile, the organizer, Desma Holcomb, worked with the District 65/UAW Security Plan Administrator Larry Morgan to develop a comprehensive alternative: a self-insured plan administered by the union along the lines of the *Voice* plan. The union was able to construct a package that included domestic partners, enhanced dental coverage (another demand) and matched Aetna's benefits for 10% less than the cost of the existing Aetna plan. This delighted the negotiating committee and the 15 or so members with domestic partners.

But before management received the proposal, some of the union members began to worry about changing insurance companies. While many had complained about Aetna, they still perceived it as more secure than the unknown union plan. They were concerned about coverage while traveling on business in the U.S. and Europe. Jeff Weinstein from the *Voice* and Larry Morgan were able to demonstrate that the union plan had been recognized nationwide and even worldwide.

willing to extend coverage, a union health plan may not be an option for domestic partners. In such cases, union negotiators are going to find themselves directly up against a biased insurance industry.

Taking On the Insurance Industry

The insurance industry has a history of discriminating. For decades they charged higher premiums to black people, on the assumption that whites as a group are healthier than blacks. Legal challenges finally put an end to this practice.

Sex discrimination is still common. The industry currently charges women an average of \$100 more a month than men for individual policies because women on average have more health problems than men (presumably due to childbearing). In fact, the insurance industry mounted a massive and effective lobbying campaign against the Equal Rights Amendment because they feared it would outlaw this policy of sex discrimination.

Finally, this is an industry that has been using every legal and some illegal means to keep from covering people with AIDS and gay men in general. When faced with a request to cover domestic partners, the industry seems to assume all domestic partners will be gay men and that all gay men have AIDS. This is based on bias and stereotypes. It assumes all domestic partners will be gay men. But the experiences of existing domestic partner benefit plans have been that 1) half of the homosexual partners are lesbians, and 2) heterosexual partners are 50 to 85 per cent of the partners covered.

Furthermore, the industry response assumes that only gay men have AIDS. AIDS is a result of high-risk *behaviors* which may apply to heterosexuals or homosexuals. Again the actual experience of existing domestic partner benefit plans belies this fear; the incidence of expensive illnesses among domestic partners has been no different from that of spouses in these plans.

The insurance companies need to be educated and pressured to stop making cost estimates based on fears rather than facts. Furthermore, we need to defend the rights of co-workers, spouses

The insurance companies need to be educated and pressured to stop making cost estimates based on fears rather than facts. Furthermore, we need to defend the rights of co-workers, spouses and partners with AIDS to insurance benefits that are routinely given to people with cancer or heart disease.

and partners with AIDS to insurance benefits that are routinely given to people with cancer or heart disease.

Even before the AIDS epidemic, however, insurance companies resisted domestic partner coverage by arguing that there would be actuarial problems of "adverse selection." Adverse selection occurs any time "too many" seriously ill people become covered by an

insurance policy and the insurance carrier's profitability might be threatened. By using the law of averages, actuaries develop educated guesses as to the amount of medical costs that will be incurred by an individual or a group of employees *and their spouses*.

Actuaries and insurance companies assume that people marry for reasons other than getting spousal health benefits. Even though a some heterosexuals do in fact get married for health insurance, tax and other benefits, spouses as a group still have an average amount of good health and illnesses. On the other hand, insurance companies assume that, given the chance, many people will designate a non-lover as a "domestic partner" only because they have a roommate or friend who is ill and needs coverage. So they assume that domestic partners as a group will include an above-average number of sick people, many of whom are not really domestic partners at all.

That's why they think domestic partner coverage would lead to adverse selection. Two prejudices lie behind these assumptions. First, they do not consider domestic partner relationships to be as legitimate or serious as marriages. Second, they think that the kind of people who would openly claim to have a lover (straight, lesbian or gay) are likely to be liars. Both of these myths need to be directly challenged when soliciting bids from carriers for partner coverage.

You can back up your arguments on principle with the experiences of existing partner plans. To our knowledge, there have been no reported incidents of cheating whether the plan used a waiting period or binding affidavits. Besides, both these systems offer methods of discovering cheating and subsequent redress for the

employer. Essentially the insurance industry's technical objections to partner coverage conceal the fact that the industry discriminates against non-traditional families, gays and people they suspect might have AIDS.

INSURANCE OPTIONS FOR DOMESTIC PARTNER COVERAGE

Until domestic partner coverage is widely available, there are a few different options for pioneering unions and employers. These were first outlined in the 1987 ACLU "Status Report on Domestic Partner Benefits." We have updated their information where possible.

Large Employers - Bargaining with Insurers

Large employers can try to bargain with established insurers or consider self-insurance. These have been the methods used by cities covering thousands of municipal employees. For example, Berkeley uses the Kaiser Permanente HMO for city workers and Blue Cross of Northern California for school district employees. Partly because they are so huge and cover so many individuals, Blue Cross and Blue Shield companies seem to have been easier to bargain with than the dozens of private companies that cover non-hospital and non-surgical benefits. But this may vary from state to state.

Large Employers - Self-insurance

Both Santa Cruz and West Hollywood self-insure. West Hollywood resorted to self-insurance after having been unable to find a traditional carrier. In fact, 60 per cent of major corporations now self-insure due to their frustration with the insurance industry's skyrocketing premium costs.

Self-insurance means that management hires an insurance company only to administer claims. The employer pays the insurance company an administrative fee for this service. This fee is based on the number of claims, the number of employees, or a combination of the two. The actual doctor bills are reimbursed out of the company's bank account. So the company gets to hold onto its cash rather than an insurance company sitting on premiums till bills come in.

The company will only purchase real insurance for "stop loss coverage" to protect its assets in cases of huge individual or group claims. An insurance pool covers individual claims exceeding the stop loss threshold (\$50,000, \$75,000 or \$100,000, depending on the policy chosen). The same pool covers group claims that run more than 25 per cent over the original estimate of claims for the year.

Companies have found that self-insurance can be cheaper than premiums for insurance for the same group of employees. For example, in its first six months of self-insurance, North Hollywood saved \$65,000 while covering domestic partners compared to its six-month premium under the old insurance plan *without* partner coverage.

The 350 employees of the American Friends Service Committee (Quakers) in Philadelphia have domestic partner coverage through the Independence Blue Cross Association (hospital only) and John Hancock Life Insurance Company (medical). The John Hancock policy for the Quakers is a conventional insurance plan with additional stop loss coverage for extra protection. Partners are covered as additional individuals for cost estimate purposes. However, Brian Gould of John Hancock has expressed a willingness to discuss domestic partner *self-insurance* type plans with unions and employers in other cities if they have a minimum of 500 employees and an annual total of claims in the \$250,000 to \$500,00 range.

The advantage for unions of amending or switching to a self-insured health plan is that unions can negotiate directly with management instead of indirectly with the insurance industry on the terms of the coverage. Unions are likely to have more clout with their company than with an insurance carrier. However, this probably means that the union will have to respond to management's concerns about the same issues of costs and potential cheating that would normally be raised by an insurance company.

On the other hand, greater freedom in plan design could be beneficial apart from partner coverage. The union could negotiate coverage for home care or even experimental AIDS drugs. And because employers don't have to pay a premium tax on the administrative fee to the insurance company, they save money.

Medium Size Employers, or Progressive Insurers

Medium size employers have sought out progressive insurance companies. Consumers United is a progressive, worker-owned, small insurer which has covered domestic partners for several years. They also have unisex premiums (i.e. the same rate for men and women.) This is the company used by the National Organization for Women and the gay Human Rights Campaign Fund in Washington, DC. However, as of 1987 the company had been given only a "fair" rating by *Bests* and was not licensed to issue policies in the state of New York. You should assess its current status and check with the above-mentioned clients before proposing it in negotiations.

Liberty Mutual has covered partners for the American Psychological Association for five years, but their New York office refused to give a bid for such coverage to management of the Museum of Modern Art. It may still be worthwhile for companies and unions to approach Liberty Mutual again. After all, in 1987 Assistant Manager Stephen Young told the ACLU, "there is no reason why Liberty Mutual would not offer domestic partner coverage to another policy holder."

Small Employers - Buying Individual Policies

Small employers who do not have the clout or group size to negotiate partner coverage with carriers have resorted to paying the cost of individual policies for domestic partners. This is more expensive than including partners in a group policy, but has been undertaken by committed organizations like the San Francisco

office of the ACLU and New York City's Lambda Legal Defense & Education Fund.

Partial Benefits

Unions can propose that employers subsidize the individual plans of domestic partners; that would be a reasonable "fallback position" to take in negotiations. Because it may not be possible to include partners in some group policies, unions should be prepared to make such alternative proposals. This avoids the all-or-nothing bargaining stance that may leave members without any partner health coverage. Here are some compromise positions. You will probably develop additional ones for your particular situation:

1) Management pays all or some of the cost of individual insurance plans for partners. Management should pay at least an amount equal to the premium it pays for individuals or spouses in its group plan.

2) Management pays the full cost of individual insurance plans for partners, but only for the most important part of the benefit plan. This could be hospitalization, major medical, dental or optical depending on the partners' collective priority.

3) Management provides a form of self-insurance for partners, by reimbursing actual medical expenses up to a certain amount.

All of these proposals are really pilot projects. They bring to light the actual number of partners and their demographic characteristics (male/female, gay/straight). They also develop a track record of benefit usage with which the union and the company can re-approach insurance companies in preparation for

the next round of bargaining. This kind of data should help insurers formulate reasonable rates for bids to cover domestic partners. Finally, they provide some immediate benefits for partners and open the door to future gains.

PENSION BENEFITS

Other than the Canadian lawsuit over spousal Social Security, there is only one domestic partner challenge to spousal retirement benefits to our knowledge so far. The Communications Workers of America (CWA) District 1 began bargaining with the New York/New Jersey phone company, NYNEX, shortly after domestic partner benefits were front page news in New York City in the summer of 1989. While the main focus of the bargaining was the strike issue of health insurance givebacks, the union was also trying to improve benefits in a well-funded pension plan.

Using sample definitions from contracts with partner health coverage, CWA proposed that domestic partners receive the same surviving spouse pensions as legal spouses. After a long strike, the union won on the issue of health benefits, but family partner pension benefits were not achieved.

CWA may have been the first, but they will by no means be the last union to take the fight for domestic partner rights into the realm of pension benefits.

CONCLUSION

Lesbian and gay organizing for domestic partner rights through contract negotiations, lawsuits and political action has only begun. Bereavement leave is appearing in more contracts and family sick leave will not be far behind. There will be a major showdown on health coverage in the 1990 New York City municipal negotiations. In the meantime, we hope to facilitate attempts to get partner health coverage in private sector companies as well.

The obstacles we face are substantial: management's homophobia, reluctant unions (sometimes), concessions bargaining, biased family laws, and a discriminatory insurance system. But our organized presence in unions is growing, and our potential allies are many: straight couples, elderly, disabled and progressive union sisters and brothers. We have proven through experience that domestic partner rights are not just a utopian dream but are becoming a contractual reality.

AIDS IN THE WORKPLACE

Introduction

The AIDS epidemic is a critically important issue for the labor movement. As the AIDS epidemic grows, we can anticipate that the disease will also spread among more union members and their loved ones. The involvement of the labor movement in sensitive, widespread public education about the disease can make a great difference in helping to stop the spread of the epidemic.

How well prepared are our organizations to handle the multiple crises that arise when a union member becomes sick? What kinds of practical programs does the union have available when members are in need? Can we "take care of our own," or at least provide reasonable help for people with AIDS (PWAs) who must deal with numerous bureaucratic hurdles when the disease threatens their ability to function normally?

Several New York City unions represent members whose jobs expose them to the HIV virus. What are the risks for health care workers and what other occupations present potential exposure to the virus? Are the unions representing those workers insisting on up-to-date accessible bilingual training programs to educate and protect their members? What measures have government agencies--such as the Occupational Safety and Health Administration (OSHA)--taken to develop comprehensive policies and standards so that workers can prevent themselves from being exposed on the job?

Many union members may needlessly fear that they will "catch AIDS" at their workplaces. They may fear casual contact with gay co-workers or members of the public that they serve in the course of a normal workday. At the same time, other union members may believe that they cannot catch the disease because they are "straight"; yet at the same time they may actually be risking

What actions are unions taking to educate the membership about the real risks of AIDS transmission? How are unions working to reduce homophobia among the membership so that the truth about AIDS will be understood by everyone? Finally, are unions properly representing all members--straight and gay--when fear of AIDS causes friction at the workplace?

exposure because of their unsafe practices in their private lives. What actions are unions taking to educate the membership about the real risks of AIDS transmission? How are unions working to reduce homophobia among the membership so that the truth about AIDS will be understood by everyone? Finally, are unions properly representing all members--straight and gay--when fear of AIDS causes friction at the workplace?

In our discussions with rank and file members, union officials, staff, and health and safety experts, we found that several New York City unions involved in the health care and entertainment industries

have done some important work in the battle against AIDS. Some creative programs have been developed for PWA union members, and basic AIDS education has reached tens of thousands of hospital workers.

But much more needs to be done. AIDS is an issue for all workers. With union members and their families increasingly affected by the disease, the actual dearth of AIDS educational programs in most union settings is alarming. Can we use the channels of communication and education that our unions provide to foster AIDS prevention? In the process of AIDS education can we confront our co-workers' homophobia so that our unions and our workplaces will become more open to all gay and lesbian workers?

Helping PWA union members and developing AIDS education programs means that unions must confront some of these tough questions. We are outlining some examples of successful programs that have worked in New York City unions in the hopes that they can provide models to the rest of the labor movement for progressive and compassionate action.

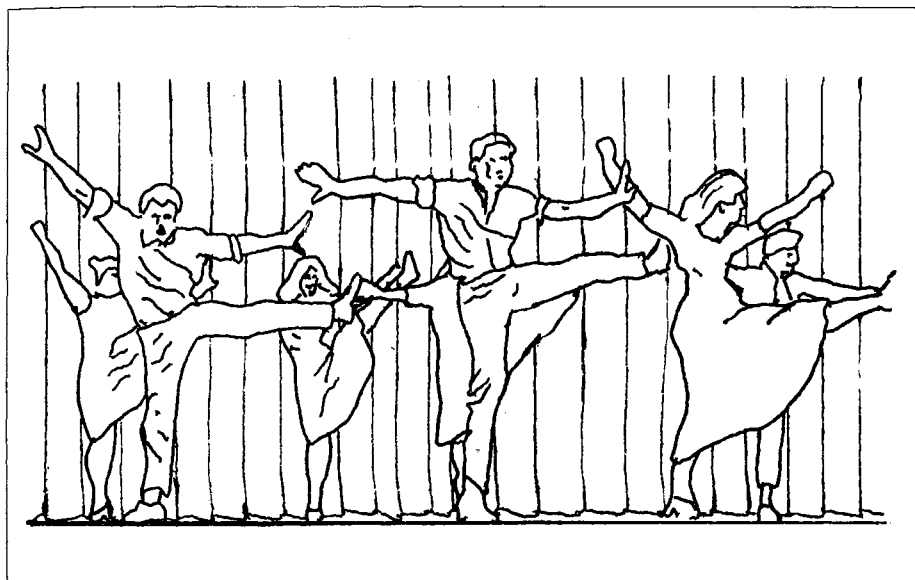
TAKING CARE OF OUR OWN--SHOW BUSINESS WORKERS WITH AIDS

The entertainment industry has traditionally been more open towards gay lifestyles than many other work sectors in our society. Since the mid-1980's, entertainment unions such as Actors Equity

Association and the American Guild of Musical Artists (AGMA) have made a priority of reaching out to help members with AIDS. Their efforts have developed into a complex safety net of services, successes are specifically tied in to the nature of the industry, there is also much that the rest of the labor movement can learn from their examples of courage, compassion and organizational know-how.

Relief Funds in the Entertainment Industry

Unions in the entertainment industry administer relief funds, money that they raise themselves or that is allocated to them through the Theatre Authority. Relief funds traditionally are used to help out members who are in financial straits due to illness,



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evictions, old age, etc. AGMA, for example, has been making grants to members in need since 1945.

The AGMA Relief Fund provides survival level assistance to PWA members who must pay back rent and utilities, or buy food and medication during a crisis. "Usually members with AIDS don't come to us at the beginning of their illness, but after their own funds have been exhausted. It takes three to six months after application for Social Security, Disability and Medicaid to start covering a sick person. During that period, we're able to help," says Floran Yagoda, administrator of the fund. Grants of under \$1,000 are approved in one day, and larger requests also have a quick turnaround.

The AGMA Relief Fund respects domestic partnerships. Members who are not themselves sick, but have exhausted their savings while caring for their ailing partners may make application for emergency relief. "The request has to come through the member. There's a household there," remarks Yagoda. Even after SSI money comes in, the AGMA Relief Fund continues to keep in touch with its PWA members, referring them to AIDS services or helping out with another small grant if there are new problems.

The Actors Fund

The Actors' Fund of America is one resource that often gets an AGMA referral. Many entertainment unions contribute to the Actors' Fund. As an autonomous foundation with a substantial endowment, the Actors' Fund makes its social service and financial assistance programs available to all who work in show business, regardless of union status. Over 500 PWAs in the entertainment industry have already gotten help from the Actors' Fund. In 1988,

the Actors' Fund assigned Social Worker Eric Stamm to work fulltime on its AIDS Project.

Through the AIDS Project, the Actors' Fund provides financial assistance for food, medical expenses (health insurance premiums, medications, tests, doctor and dentist bills), utilities and rent. Stamm helps PWAs find appropriate housing if they cannot walk up stairs or if they live in high crime neighborhoods. The AIDS Project also arranges for quick delivery of home health care and subsidizes psychotherapy, special equipment (such as motorized wheelchairs) and experimental or alternative treatments (for example, Aerosol Pentamidine). And when deaths occur, there is assistance for funeral and burial expenses.

Often entertainment union members turn first to the Actors' Fund AIDS project. Its track record of confidentiality gives assurance to performers that their reputations in the industry won't be harmed, and that if they want to, they will be able to keep on working while they battle the illness. Once PWAs have been enrolled in government benefits programs, Stamm tries to help them cope with their condition, supporting dietary changes, self-acceptance of gayness, and holistic and preventative treatment strategies. A volunteer "buddy" program on the Gay Men's Health Crisis model is also available as are caregivers and HIV-positive support groups. The GMHC and other AIDS resource centers often refer clients who are eligible to the Actors' Fund AIDS Project.

Equity Fights AIDS

Members of the entertainment unions have a track record of successful AIDS fundraising. In 1985 all the performing arts unions got together to produce "Best of the Best," a gala benefit at the Metropolitan Opera House, netting one million dollars to be

distributed among the then three most prominent AIDS organizations--GMHC, the American Foundation for AIDS Research (AMFAR) and the AIDS Resource Center. From that effort Actors Equity established Equity Fights AIDS (EFA), an ongoing union-based fundraising committee created to address the extreme financial needs of its members living with AIDS.

When the Actors' Fund provides emergency financial assistance to an Equity member, the union reimburses the fund for the expenditure from Equity Fights AIDS dollars. Since its inception in October 1876 (and as of January 1, 1990) over \$800,000 has been raised by Equity Fights AIDS and distributed to professional actors and stage managers through the social services provided by the Actors' Fund. This assistance has been raised largely through grass roots efforts by rank and file union members. They have made money for AIDS assistance a union priority, and their successful efforts have supported the vital work of the Actors Fund.

The EFA Committee is chaired by Arne Gundersen, third vice president of Equity, and all its activities are warmly sanctioned by Equity's Council. *Equity News*, the union's monthly newsletter, publishes regular features on the activities of the committee and the fundraising efforts of members and theatre companies across the nation. "Most of the people involved are not necessarily gay," he says, "They're just committed to doing something about the crisis. No one in this organization has ever said 'no' to our efforts." Thanks to the administrative support provided by the union, 100 per cent of the money raised goes to those members living with AIDS and in need.

EFA raises most of its money through the show companies. Like shops in a local union, each company delivers contributions to EFA through company-wide fundraising projects. Since 1987 the union has designated Thanksgiving Week, a high point of the theatre season, as "Equity Fights AIDS Week." With car washes, crafts fairs, bake sales and flea markets, working union members all over the country appeal to their audiences with time-tested fundraising techniques. In the lobby at intermission many sell autographed posters or a raffle dinner with a star of the show; or they greet theatre patrons after the show with collection baskets. Often, after a show closes, cast members go to new companies and share successful ideas. The amounts raised vary, but each year the enthusiasm to participate grows. In 1987 EFA raised \$73,000. This total grew to \$120,000 in 1988. In 1989 the third annual EFA week grossed over \$200,000 in individual and company contributions from across the nation.

In 1988 Equity celebrated its 75th anniversary by dedicating the entire proceeds of a gala benefit to EFA. Program advertisements included memorial statements to actors who have died, and directly addressed the AIDS crisis as one that affects us all. A gala affair with high-priced tickets does not guarantee big money; however, Equity's 75th anniversary gala netted \$90,000 and was a substantial boost for EFA.

Most of EFA's work is less glamorous. Actors who play dinner theaters, tour the country and work on and off Broadway raise some of their EFA contributions from the show business nature of their efforts, but certainly much of the money they collect is the kind that any union local can earn by encouraging members to dig in and work hard for a worthy cause. "Fighting AIDS can be very

weariness and saddening, but Equity's staff and membership have really gotten into the positive spirit of this campaign," says Tom Viola, Special Projects Coordinator for EFA. "The companies compete with one another. EFA has given many people an opportunity to reach out and do something for another, and that something matters and keeps us going."

SAFER JOBS FOR HEALTH CARE WORKERS

Nowhere does the AIDS crisis put a more severe burden on workers than in the New York City health care industry. Workers require proper education about the realities of the disease and how to protect themselves so that they can perform their work safely and humanely. Patients with AIDS have special needs. But often the pressures of understaffing and poor management have compromised the relationships between patients and caregivers in our hospitals.

Educating Hospital Workers

Unions representing hospital workers, such as 1199, SEIU and NYSNA have developed workers' AIDS education programs. The AIDS Education Committee of SEIU's Local 250 at San Francisco General Hospital began the process in 1982 with a fact sheet, "AIDS and the Health Care Worker" that has been distributed through five editions by the union in Spanish and in English, in the U.S. and in Canada. Since 1986 SEIU has also published the more thoroughly documented "The AIDS Book." It uses a question and

answer format to lay out the basic facts about the epidemic, details the health occupations which are primarily at risk, suggests model contract language for training programs and safer workplace practices, and describes the work of the Local 250 AIDS Education Committee.

At NYC health care facilities, pressure is a major AIDS issue. "The burden is on the worker. Nurses Aides have been told to do without gloves. New gloves are in short supply or the nurses aren't given the time to wash their hands," reports Laura Kenney of SEIU's Regional Health and Safety Office. An SEIU survey revealed that many members are not getting AIDS training, protective equipment, or information about guidelines from the employers. 75 per cent of RN's were receiving training about infectious diseases, while only 55 per cent of Nurses Aides and 35 per cent of laundry workers were being reached. "The members fear for themselves. This comes out of gross understaffing and gross undersupply of equipment," says Kenney.

AIDS education is a priority for 1199's two staff trainers at the union's Health and Safety Office, but with 100,000 members, sometimes over 2,000 to a hospital, it is difficult to reach everyone or to teach more than the basics. The Health and Safety Project has distributed more than 20,000 copies of the pamphlets "AIDS--How Can I Protect Myself?" and (in Spanish) "SIDA." On-site seminars at the 200 health care facilities under contract to 1199 attract as many as 70 members per session, and address some of the fears and pressures that health care workers face. "Some of the employers provide in-service training," says Vice President Lenore Colbert, director of the program, "but our members would rather get their information from us. They are pushed to produce. They should be

careful to observe protective precautions, but they're shortstaffed and get so rushed. We won't tell them lies to get them to work."

Hospitalized PWAs in crisis need a lot of care. Hospital workers know that people of any age, race or sexual orientation can all be AIDS patients. "We try to get our members to be more tolerant in their attitude," says Colbert. "The patients are very sensitive and can get pretty upset when they see the aides wearing gloves. So we encourage them to talk with the patient about why they are wearing the gloves. We encourage them to be compassionate caregivers along with the safety instructions."

The OSHA Standard on Bloodborne Diseases

Health care industry unionists are quick to point out that HIV infection is only rarely caused by exposure to patients and their fluids. On the other hand, in 1987, 200 health care workers died of Hepatitis B, a serious and occasionally fatal liver disease. While the routes of transmission of Hepatitis B include those for HIV, the virus for Hepatitis B (HBV) is a much hardier and more infectious virus. Thus, the AIDS epidemic has brought to light the dangers of another lethal and far more routine threat to health care workers.

Health care unions have waged a lengthy and vigorous campaign with the Occupational Safety and Health Administration (OSHA) to set a strong enforceable standard for bloodborne diseases. They have been encouraging their members to remember that the precautions ("Universal Bloodborne Disease Precautions") they take to protect themselves against AIDS infection (careful disposal of needles, wearing of gloves and protective masks and gowns, washing hands after removal of protective gloves and garments)

will protect them against the much more prevalent Hepatitis B as well.

In May of 1989, OSHA issued a Bloodborne Infectious Disease Proposed Rule subject to written comments from the public and open hearings in four cities. The New York City hearings in November 1989 heard testimony from all the health care unions. Activists from the GMHC and the Aids Coalition To Unleash Power (ACT-UP) also testified at the hearings. It was the first time that gay organizations and Occupational Safety and Health groups joined together. Like the unions, they supported a strong standard, advocating hospital-wide education and training.

This proposed OSHA standard has several important strengths. It extends protection to many workers. Rather than being confined to a few specific industries, it covers anyone who is occupationally exposed and it sets compliance by task rather than by job title. It also requires employers to develop an infection control plan, to provide personal protective equipment, and to train workers annually at their appropriate level of education and bilingual literacy. Along with information about modes of HIV and HBV transmission and proper use of protective equipment, the trainings must cover the employer's infection control program.

If the proposed standard becomes law, any worker who is exposed to blood or potentially infectious material at least once a month would be offered a free Hepatitis B vaccine series, paid for by the employer. For specific exposures to the eye, mucous membrane or cut skin, HIV and HBV testing would be offered with medical follow-up; but testing of the source person's blood could only be done with that person's permission.

Union activists and occupational safety and health experts have been pressing for a long time for a strong OSHA standard. The proposed one effectively targets real hazards to health care workers and clearly spells out management responsibilities. Along with contractually negotiated provisions for proper precautions, adequate equipment, and training, the standard could really help workers at intensively stressful workplaces--like hospitals--who must perform high risk tasks. At the same time, the standard does not threaten patient confidentiality, nor does it feed the fears of workers whose physical contacts with PWAs remain casual.

A problem with the proposed OSHA standard is that it doesn't address the job tasks of workers who are not in regular contact with infectious materials, but could be at risk for HIV or HBV infection, such as the plumbers servicing clogged toilets at city shelters who could sustain needle sticks from used hypodermic syringes. If the OSHA standard is adopted, these workers will have to protect themselves by negotiating strong, specific health and safety language in their contracts.

Before the OSHA rule was even developed, warehouse workers at one of the drug manufacturers under contract with Local 8-149 OCAW used the "hazardous substance" language of their contract to grieve safety procedures at the loading dock. The company was developing an HIV diagnostic kit and was receiving regular shipments of contaminated blood. The union called in an industrial hygienist and required the company to develop a joint policy statement of procedures regarding blood as a hazardous substance.

There are some other weaknesses to the proposed standard. The AIDS activist groups wanted to see mandatory two hour training sessions for every hospital worker, no matter what the task. The Health and Safety groups also made criticisms of the proposed standards. They want the HBV vaccines available not on a "once per month or more exposure" basis but whenever an exposure would occur. The unions also want OSHA to emphasize "engineering controls." Such controls would put more of a burden on the employer than on the worker to ensure protection. Better engineered equipment could mean, for example, tear-resistant gloves or self-sheathing needles over standard gloves, goggles or gowns as "personal protective equipment."

Finally, at least OSHA is predicting that the final rule won't be released until September, 1990. Then, after the standard goes into effect, there are delays of 90 to 150 days before the programs must be instituted. Hospital management has objected to speedy implementation. But this OSHA standard is long overdue. Strong and enforceable safety programs are urgently needed with no delay.

UNIONS AND AIDS EDUCATION

The AIDS epidemic continues to widen, with approximately 21,000 cases in New York City since 1981. By now, most New Yorkers know someone who has the disease or has died of it. In June of

1989 8,824 people were living with AIDS in the city. These numbers represent many union members and their families.

However, the labor movement here has not developed a city-wide, union-wide approach to AIDS education.

There are a few local unions which have set up workshops or published materials and they report considerable success at reaching a membership eager for information. So it is doubly

Labor's contribution to AIDS education could make a vital difference in the way our communities treat people with the disease.

unfortunate that labor's efforts to educate workers about AIDS have been so weak. Working New Yorkers want to know more about AIDS and would welcome their unions' leadership on this public issue. Unions have a tradition of being at the forefront of campaigns to enlighten the working public about urgent social concerns. Labor's contribution to AIDS education could make a vital difference in the way our communities treat people who are living with the disease.

Furthermore, people with AIDS are living longer--some several years after the first diagnosis--and many are well enough to continue working. That means that there is going to be an increasing number of workplace cases of AIDS, and thus, an urgent need for union leadership in workplace-related AIDS issues.

Two Model Programs

California

The AIDS Labor Education Project at the University of California's Institute of Industrial Relations in Berkeley has been working successfully with the organized labor community of the East Bay for three years. Funded by the California Department of Health, the Project has representatives of SEIU, CWA, AFSCME, IBT and the California State Employees Association on its board. Project Director Elaine Askari began her work with a series of basic AIDS information sessions, training the delegates to five East Bay Central Labor Councils. At first support was difficult; many union representatives believed that they wouldn't have to worry about AIDS because they represented blue collar workers. But it has eventually become clear to East Bay union leaders that PWAs cannot be stereotyped. The program has spread to local membership meetings and stewards' workshops. In all, 5,000 union leaders and rank and file members have participated in the sessions.

Integration of AIDS Education into union education programs can be successfully accomplished. SEIU Local 790, representing 1,200 City of Oakland employees recently bargained a "side letter" granting released time for AIDS training. A two day "Train the

Trainer" workshop for SEIU Local 250 members took advantage of Educational Leave contractual language to reach 80 "indirect" health care providers (dietary, housekeeping, respiratory therapists). They in turn went back to their workplaces and conducted one-on-one sessions as well as lunch hour and after work meetings to disseminate the information to 4,000 more workers.

These dramatic successes of the AIDS Education Project show that a pro-active and pro-labor AIDS training program can make a difference in the life of a union local. Several of the 75 American

Several of the shop stewards who attended workshops represent both PWA union members and co-workers who are afraid of acquiring the HIV virus. Askari said, "We point out that it's labor's role to fight for all people's civil rights. The union should be open to all its members who need help."

Postal Workers Union shop stewards who attended workshops told Askari that they were there because they represent both PWA union members and co-workers who are afraid of acquiring the HIV virus. How should they handle workplace tensions? "It's easy to do health and safety training, but here you are talking about sexual issues as well," said Askari. "We point out that it's labor's role to fight for all people's civil rights. The union should be open to all its members who need help."

2. Michigan

The Southeast Michigan Coalition on Occupational Safety and Health (SEMCOSH) has compiled a remarkable and important four page fact sheet "AIDS in the Workplace: Fear vs Fact." It contains the important basic information about the modes of

Elsewhere in the state, the United Auto Workers and General Motors have integrated AIDS education into their joint program on Health and Safety by producing their own AIDS fact sheet and mailing it to every GM employee.

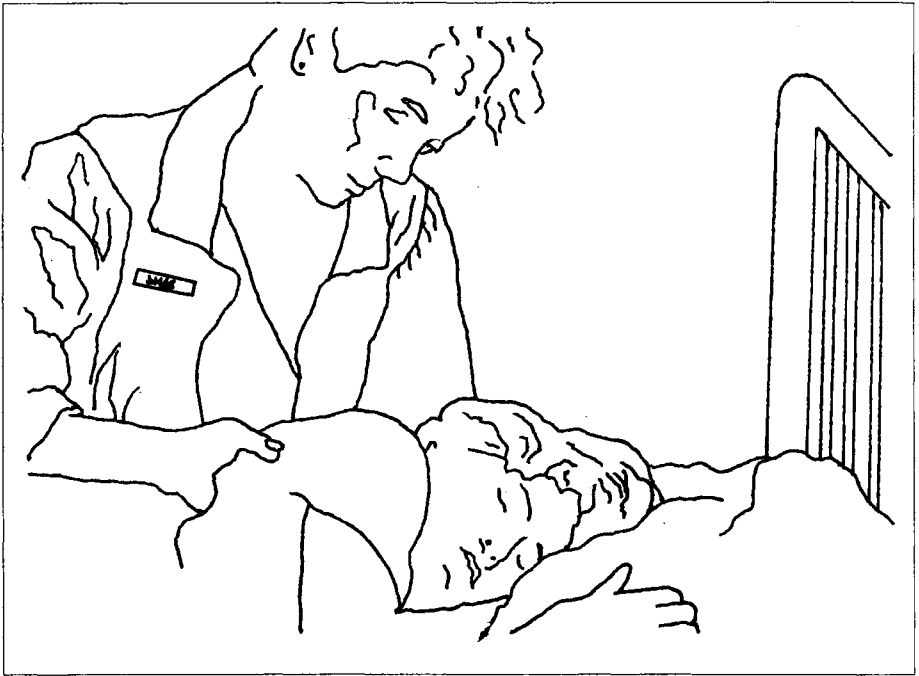
transmission of HIV, and it addresses the fears many workers have of casual contact leading to infection. There is a section on health care workers and Hepatitis B, on HIV testing, and a thorough list of literature and telephone hotline resources.

SEMCOSH has put this fact sheet through seven editions--at least 30,000 copies--since 1984. Employers have used it. Other COSH groups, such as NYCOSH have reprinted and distributed it. The SEMCOSH fact sheet is different from publications distributed by the Red Cross or other service organizations because it also tells its readers that "Unions Have a Vital Role to Play."

The sheet explains that unions can protect workers at risk and defend workers who have or are perceived to have the disease. They can negotiate these protections in their contracts. They can

keep records on workplace exposures. They can sponsor education programs. They can be vigilant in representing union members who have the disease or are perceived to have it. They can lobby for stronger regulations (like the proposed OSHA standard).

SEMCOSH has been an influential labor-based political force in AIDS education. They have lobbied a major employer, the State of Michigan to conduct inside AIDS training of its workforce. Elsewhere in the state, the United Auto Workers and General



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Motors have integrated AIDS education into their joint program on Health and Safety by producing their own AIDS fact sheet and mailing it to every GM employee.

SEMCOSH Program Associate David Cohen says that the organization has led a few on-site educational meetings and gives information over the telephone, but that the major AIDS work of SEMCOSH has been achieved with the fact sheet. In order to improve its programs and materials, Cohen surveyed Michigan local unions. The questionnaire checked union leadership attitudes about PWA workers' rights to remain on the job, employer policies, AIDS related grievances, and membership AIDS education.

City Wide Union Action on AIDS

In December 1987 the NYC Central Labor Council, the state AFL-CIO, Empire State College, the Maritime Port Council and the New York Consumer Assembly sponsored a half-day workshop on AIDS, aimed at union officials. There was a clear general concern in the labor community about the overwhelming burden the epidemic was putting on union health funds, membership assistance programs, and union based medical and dental clinics. Also, in 1987, a New York City Labor/AIDS Task Force began to meet, reaching out to rank and file gay activists and union staffs of health and safety, insurance, and social service departments.

The Labor/AIDS Task Force held a series of forums and set up subcommittees to develop guidelines on its topics of concern: Education and Training; Alternative Care and Cost Containment

(Insurance); Lobbying; and Confidentiality and Discrimination. At first the meetings were well attended, but by June 1988, the Task Force had stopped meeting. The Education and Training committee made some suggestions, but otherwise, no guidelines had been written nor had a model policy been adopted.

Since then, local union leaders have had to invent for themselves their own AIDS policies and training programs. Some have done so admirably; many others, lacking official sanctions, a central resource network or a sense of membership support for such programs have simply not dealt with the issue at all. Nevertheless, the education that has been attempted has been successful enough to provide some direction for future efforts by the city's labor community.

District Councils 37 and 1707--AFSCME

As an international union representing millions of American workers in health care and human services, AFSCME has been active in the campaign for an OSHA bloodborn disease standard and has developed union-wide AIDS education policies. In June 1989 AFSCME received funding from the Centers for Disease Control (together with the AFL-CIO and SEIU) for its AIDS services and education. Thus, in New York City the two AFSCME district councils, DC 1707 (representing workers at private non-profit agencies) and DC 37 (representing 125,000 municipal workers) can call upon the resources of the international union for AIDS training.

The Public Employee Press (PEP), which is distributed bi-weekly to DC 37's membership, has reported continually on the impact of the AIDS epidemic on city workplaces since 1983. In 1986 the paper ran four articles; in 1987 there were eight. The themes of these articles range from information on hazards for union members who are employed at city hospitals to the rights of PWAs to be protected by the Rehabilitation Act of 1973.

PEP has reported the facts about how the disease is transmitted and what the risks are with the kind of casual contact prevalent in office workplaces. The newspaper also ran a lengthy feature on a Department of Health worker whose compassionate work with PWAs shows the human side of the epidemic.

The union has used *PEP* to inform the membership of the realities of AIDS. In August 1984, the newspaper urged members not to fear making blood donations. It has publicized a television documentary about AIDS as well as public forums and union-sponsored seminars as sources of information. It has also notified the membership about the city-sponsored Baumgartner Health Clinic's free HIV testing services.

The 20,000 health care workers represented by DC 37 are of special concern to the union. In 1983, the union distributed a booklet, "Background on AIDS" throughout the municipal health care workforce. In 1986 DC 37 members employed in the municipal hospital system were surveyed in a joint union/management study to discover what workers knew and didn't know about the disease. The study showed that extensive training was necessary. The union has also had numerous meetings with the

management of the Health and Hospitals Corporation to increase precautions and to enforce workplace safety.

District 65-UAW

"There are cases of AIDS throughout our entire union," says Netsy Firestein of District 65's Membership Assistance Program (MAP). "We thought AIDS would be confined to the shops where there were a lot of white gay people. But it has also hit minority members in the garment, direct mail and traditionally blue collar shops." By June 1988, there were 20 union members with AIDS.

District 65 represents about 20,000 workers in a wide variety of occupations at small shops throughout the metropolitan area. District 65 has its own insurance (Security Plan) and dental clinics which serve the members' health needs. In 1986, realizing the gravity of the AIDS epidemic in New York City, Director of the Security Plan Larry Morgan appointed a District 65 Task Force to work on coordinating union services and referrals. The Task Force recommended that the union set an AIDS policy, develop union-wide training programs, and educate the membership via the union's newspaper, *The Distributive Worker*.

It took more than two years, but in June 1988 the paper ran an extensive and important story "A Decade of AIDS." Along with basic facts about AIDS, it featured the story of a member, a warehouse worker, and how the union helped him and his family to cope with the illness. There was also a vibrant photo of union member Leonard Bruno demonstrating with ACT UP, the AIDS Coalition to Unleash Power. "There are really two AIDS epidemics," wrote *The Distributive Worker*, "one, the disease itself; and two, an epidemic of fear. It is important not to confuse the two."

Recently, District 65's Security Plan and dental clinic staffs received AIDS training from the city's Department of Health. Morgan would like to see training expanded to include top officers, organizers and stewards. Referrals and other membership assistance services have been improved, but there are issues of sensitivity and confidentiality that still need tightening. Morgan also tries to keep abreast of developments in experimental drugs and advances in health care. He explains that because District 65 is self-insured, the union can influence care decisions, for example, by encouraging home nursing.

Local 3, United Storeworkers

Local 3 of the United Storeworkers, which represents workers at Bloomingdale's, had a very successful series of AIDS education workshops in 1988. The program was a project of the union's Social Services Department, and officers, staff and 30 shop stewards participated. "The union leadership encouraged it," reports former Social Services staffer Lynn Burmeister, who, with a social work student she was supervising, initiated the training (she now works in 1199's Membership Assistance office). They devised materials from the National Association of Social Workers' Task Force on AIDS and they used the union newsletter to enhance the message of the workshops.

"We covered the basics about the transmission of HIV and risk groups and risk behavior," says Burmeister, "but we especially directed the workshops at conquering the fears of members about their co-workers and about the public they serve at the store." Yvonne Groseil, a Local 3 shop steward recalls that "some of that AIDS training was pretty funny, like when Lynn and her partner showed how to put a condom on a banana. But it did educate the older, more religious people in the union, who were pretty

resistant. Among the workers I represent, the clericals, it got a great response."

AIDS DISCRIMINATION AND NEW YORK CITY UNIONS

AIDS discrimination is against the law in New York City, because it is illegal to discriminate on the basis of disability. Since 1983 the AIDS Discrimination Division at the Commission on Human Rights has been dedicated to pursuing HIV related discrimination. The agency has heard over 2,000 complaints related to employment, housing and public accommodations and has conducted training sessions to educate employers about AIDS bias. Increasingly, unions are also turning to the AIDS Discrimination Division to have their members trained about the realities of AIDS.

When Employers Discriminate

Workplace AIDS discrimination can take many forms. An employer who fires a worker who has AIDS or is perceived to have AIDS when the worker can perform the work with reasonable accommodations to his/her condition of health is breaking the law. An employer who alters a worker's terms of employment (by placing him/her in an isolated site with no work assignment) is not making a reasonable accommodation to the employee's disability, but is practicing discrimination. Employers cannot require HIV testing of employees, nor can they allow the perception or suspicion of AIDS to affect hiring decisions.

Workers need protection against such abuses, but those who come with complaints to the Human Rights Commission about HIV related employment discrimination rarely report that their unions have stood up for them. "Maybe we aren't getting any of the cases where the union has been involved in favor of the worker, because it has been resolved through the ordinary grievance process," says Katherine Franke, Attorney with the AIDS Discrimination Division. "But often the union members that come here don't want to go to the union; they don't believe they will get help and they fear that their story will not remain confidential. Union representatives have said to us that they don't want to risk arbitration for AIDS discrimination cases."

When Workers Discriminate

HIV related discrimination is not confined to management. People who are known to be out sick with AIDS have returned to work to find their co-workers hostile and anxious about their continued presence at the workplace. In one instance city sanitation workers walked off the job, refusing to work with a PWA co-worker. He made a complaint to the Human Rights Commission. The case was resolved when both management and the union initiated training to re-settle the work unit.

Homophobia and ignorance about AIDS can feed into a workplace rumor network; when co-workers' fears come into play, they can profoundly affect the security of individuals perceived to have AIDS. Those perceptions can be totally wrong, but can seriously cloud the atmosphere on the job. For example, a gay male office worker who knows that he is not infected with HIV might nevertheless be shunned by fearful co-workers who refuse to use

the same phone receiver or desk equipment he has been using. In one instance, a library worker recoiled from a casual touch by his lesbian co-worker; he was afraid to "catch AIDS" from her.

Unfortunately, a unionized workplace is not immune from AIDS discrimination. Union representatives should understand that they are bound to protect all members from discrimination, whatever the source. Workers certainly have a right to a non-hazardous work environment. However, AIDS is not spread by casual contact, so it is not the right of other workers to be in an environment that does not have a person with AIDS in it. Union leadership has the responsibility to prevent discrimination against brothers and sister members who contract the AIDS virus. To do that properly and effectively, union leadership has to educate both itself and the membership about the realities and risks of the disease. Sadly enough, the Human Rights Commission has heard complaints from union staffers who have been harrassed at their union jobs because they or their lovers have AIDS.

When a worker discriminates not against a co-worker, but against a customer, client or patient with AIDS or perceived to have AIDS, the union may be called upon to represent that worker at a disciplinary hearing before the employer or the Human Rights Commission. This the union must do to fulfill the legal "Duty of Fair Representation." But the union is also obliged to inform a worker who has discriminated what the ramifications are of that worker's illegal actions.

Furthermore, the union has an ethical duty to prevent and reduce all types of discrimination by its members, including discrimination based on disabilities such as AIDS or the perception of AIDS.

Workers who are ignorant about AIDS and therefore fearful of situations which put them in casual contact with PWAs or people perceived to have AIDS need to be educated before disciplinary problems come up. For example, an ambulance driver abused the companion of an AIDS patient he was transporting, and his union representative defended him at the Human Rights Commission, citing hazardous working conditions. But the incident could have been prevented with vigilant enforcement of safety procedures and sensible union-initiated training about the real hazards of AIDS transmission.

Some employers have learned the hard way that AIDS discrimination is illegal--they have been sued. A walkout by workers at the New England Telephone and Telegraph Company over a PWA co-worker required a major emergency workplace education project. Companies which have made the effort to conduct AIDS training among their workforce are dealing with discrimination issues pro-actively. There are a number of large companies, such as Levi Strauss, CBS, and The Boston Globe, which have conducted company-wide AIDS information programs.

But unions should not leave pro-active AIDS education to the bosses. While both management and labor can provide the basic information about realities and risks of the AIDS epidemic, the labor movement can do more! We can make an important difference by encouraging union members to respect their co-workers' dignity and confidentiality. We can put the ideals of solidarity at the forefront of our education by showing how important it is to prevent fear from dividing us from one another. And we can foster the cherished union tradition of joining together to help our brothers and sisters in need.

AN AIDS PROGRAM FOR NYC'S LABOR MOVEMENT

In the labor movement, resources can be strained and money for new projects hard to come by. But in making AIDS education a priority, there is a lot of basic work that the labor movement can do, much of it not very expensive nor disruptive to ongoing union programs. Unions should also explore state and federal funding for more extensive AIDS advocacy and education; by working together on a city-wide basis through such groups as NYCOSH, the resources can be better spread around.

Train Union Staff and Officers

The NYC Central Labor Council should sponsor a series of AIDS education seminars for business agents, local officers, and other union staffers. The program could be modelled on the "AIDS in the Workplace" training sessions that were so successful with four East Bay California Central Labor Councils. Topics to be covered could include: 1) Basic Information--the AIDS epidemic and AIDS prevention; 2) Representing AIDS-related grievances; 3) Information on NYC services available to union members; 4) How to educate the membership.

Mobilize the labor education resources of the city to make AIDS education a top priority.

Local unions who have membership in NYCOSH, who are clients of Cornell's labor education programs, or participate in Empire State College's Harry Van Asdale, Jr. Center for Labor Studies should lobby those organizations to seek funding for workplace AIDS education. Such education should cover workers and tasks protected by the proposed OSHA standard. But education should also consider other workplaces as well, because many workers who are not themselves at risk are in fear of AIDS and have let that fear affect their jobs.

Distribute Educational Materials That Carry the Union Message

A brochure similar to the "Fear vs Fact" sheet published by SEMCOSH should be widely distributed throughout the New York City labor movement. It should list resources available in the metropolitan area and it should emphasize the positive role that unions can play in protecting all workers and in fighting the fear. NYC Central Labor Council could get involved by sponsoring such a project.

The AIDS Discrimination Division of the Human Rights Commission has posters and letters available to the public warning that such bias is illegal. Every union hall and bulletin board should carry this message.

Use the Labor Press to Spread the Word

Editors of local union newsletters should publish basic information about AIDS prevention to safeguard the health of the entire membership. The Metro Labor Press Council should seek out and distribute strong labor-oriented stories about union self-help projects such as the Equity Fights AIDS committee. AIDS education stories should be given special consideration for commendation at the annual Metro Labor Press Awards.

Gay and Lesbian Union Members Come Out!

ACTUP says that "Silence = Death." In other words, if gays and lesbians keep on letting ourselves be unheard and invisible in the labor movement, we'll never be able to push for a stronger labor/AIDS agenda, and lives will be lost. Even though we are everywhere, we have only started to speak up. It's always risky to come out, but we won't be able to lobby our leadership to make any of these programs happen until we can feel confident that gay or straight, we are brother and sister union members with an urgent common cause. Let's find our allies in our local organizations, make the necessary proposals and then push hard to make them the next important topic on labor's agenda!

Coming out is a political act So let's be effective organizers! If you have successes in bargaining which are of concern to lesbian and gay workers, please let LGLN know! Help keep us up to date on AIDS issues and partner benefit struggles. Together we can become stronger and move forward.

CONCLUSION

This booklet has described some of the ways we, as gay and lesbian union activists in New York City have been working to make the issues of our community an important reality in the everyday lives of all union members. We hope that our ideas and our victories will serve as both an inspiration and a model. We want lesbian and gay union members and progressive trade unionists everywhere to build upon our experiences so that we can improve the quality of union life for everyone.

The Lesbian and Gay Labor Network has been meeting since 1986 to promote lesbian and gay rights for union members. We welcome *all* trade unionists who share our concerns to join the Lesbian and Gay Labor Network. We publish a newsletter and are always glad to find new people willing to join our organizing efforts.

The Lesbian and Gay Labor Network has been active on many fronts. We have participated in AIDS education seminars and have organized forums on domestic partner benefits. We have worked with the labor movement and with the gay community to promote the Coors Boycott. We have marched as unionists at the Gay Pride March and as lesbian and gay activists at the Labor Day parade. And we have worked with lesbian and gay caucuses in unions, helping activists make connections to people and resources in their unions.

We can show the gay community that union organization can make the ideal of domestic partnership benefits a hard and fast contractual reality. We can enlist our elected representatives in our lobbying efforts for better facilities for people with AIDS, and as trade unionists we can do exemplary work in "taking care of our own" when an emergency arises.

Unions have an obligation to serve all their members, no matter what their sexual orientation. By building gay and lesbian issues into the union agenda, more effective coalitions between the lesbian and gay movement and the labor movement can be achieved. Such sensible and positive organizing can only make our unions stronger.

RESOURCE LIST

Anti-Gay Discrimination: NY City Commission on Human Rights, 52 Duane Street, New York, NY 10007 (212) 566-5050

Non-discrimination Clauses: Mark Dudzic, Oil, Chemical & Atomic Workers, Local 8-149. Address: 90 Lewis Street, Rahway, NJ 07065, (201) 381-3920

Gay & Lesbian Committees in Unions

(1) Gay Teachers Association, P.O. Box 150435 Van Brunt Station, Brooklyn, NY 11215-0008 (Monthly newsletter and membership \$20).

(2) District Council 37 (AFSCME), Gay & Lesbian Issues Committee, c/o P.O. Box 1159, Peter Stuyvesant Station, New York, NY 10009

Private Legal Advocacy Groups

Paula Ettelbrick, Lambda Legal Defense & Education Fund, 666 Broadway, 12th Floor, New York, NY 10012, (212) 995-8585

American Civil Liberties Union, Lesbian & Gay Rights Project, 132 West 43rd Street, New York, NY 10036, (212) 944-9800 ext. 545

National Center for Lesbian Rights, 1370 Mission Street, 4th Floor, San Francisco, CA 94103. (415) 621-0674

National Gay Rights Advocates, 540 Castro St., San Francisco, CA
(415) 863-3624.

Bargaining for Domestic Partner Benefits

Jeff Weinstein (District 65/UAW), *Village Voice*, 842 Broadway,
New York, NY 10003 (212) 475-3300

Daniel Starr (District 65/UAW), P.A.S.T.A., Museum of Modern
Art, 11 West 53rd Street New York, NY 10019, (212) 708-9440

Gina Quattrochi, New York State Nurses Association, 1 Madison
Avenue, New York, NY, (212) 213-6616

Domestic Partner Legislation

Ivy Young, Family Project, National Gay & Lesbian Task
Force, 1517 U Street, NW, Washington, DC 20009, (202) 332-6483

Union Fundraising for AIDS: Tom Viola, Equity Fights AIDS
Actors Equity Association, 165 West 46th Street, New York, NY
10036 (212) 869-8530

AIDS Health & Safety Issues: Laura Kenny, Director, Service
Employees International Union NY State Regional Health &
Safety Office, 136 Church Street, 3rd Floor New York, NY 10007,
(212) 571-7130

AIDS Education in Unions

David Cohen, Program Associate, SEMCOSH (Southeast Michigan Coalition on Occupational Safety & Health), 1550 Howard Street, Detroit, MI 48216 (313) 961-3345

Elaine Askari, AIDS Labor Education Project, Labor Occupational Health Program, Institute of Industrial Relations, University of California, Berkeley, Berkeley, CA 94720 (415) 642-5507

AIDS Discrimination

AIDS Discrimination Unit, NY City Commission on Human Rights 52 Duane Street, 7th Floor, New York, NY 10007 (212) 566-5949

THE LESBIAN AND GAY LABOR NETWORK has been organizing for lesbian and gay rights in unions in New York City for three years. We have intervened when union members discriminated against co-workers with AIDS. We have assisted gay union members in bargain for domestic partner benefits in several unions. We have helped launch a Lesbian & Gay Issues Committee in the largest union in New York City--District Council 37 of AFSCME--the municipal workers union.

We initiated the Coors Boycott Coalition in New York City, bringing together unions and gay rights organizations. We have worked with gay labor networks from other cities to bring a labor presence to the national lesbian and gay movement. And we have found that there is strength in unity among gay labor activists.

JOIN US! Annual Dues are \$12.00, and you'll receive a bi-monthly newsletter. Additional contributions are welcome.

CLIP-AND-MAIL!-----

Name _____ Union _____
Address _____
City _____ State _____ Zip Code _____
Phones Day: _____ Eves: _____

Enclosed is \$ _____ (\$12 dues + contribution)

MAIL TO: LGLN, PO Box 1159, Peter Stuyvesant Station,
NY NY 10009.

About the Authors

MIRIAM FRANK is a New York City labor educator. She is on the faculty of the Cornell University School for Industrial and Labor Relations and has taught at the Harry Van Arsdale Jr. Center for Labor Studies of Empire State College, at Hofstra University's District 65/UAW Program, and at the Rutgers Center for Labor Education. She is a board member of the New York State Labor History Association and has published widely on women and work and on labor history. She is a member of the National Writers Union and of AFT Local 4228.

DESMA HOLCOMB has been doing union work for over 10 years, as a rank and file activist, District 65/UAW Negotiator and now an Economic Researcher for the Amalgamated Clothing & Textile Workers Union. She has negotiated on lesbian and gay issues at the *Village Voice*, Museum of Modern Art and the National Council of Churches. She was a founding member of the Lesbian & Gay Labor Network.

MIRIAM FRANK and **DESMA HOLCOMB** are domestic partners.