

Lesbian, Gay, Bisexual, Trans Members
COLLECTIVE BARGAINING CHECKLIST

The collective agreement is the foundation for workers' rights in the workplace. Many agreements are silent on the rights of lesbian, gay and trans-identified workers. It is important to review our collective agreements to ensure that we meet our legal requirements and fully represent all our members. It is equally important that as unions we always bargain beyond the law both for rights and benefits.

Ask yourself: Does your agreement clearly identify rights for LGBT members both as individuals and within same-sex relationships?

Non-Discrimination Clause in many agreements follow wording of the Ontario Human Rights Code and should prohibit discrimination on the basis of sexual orientation. The term "same-sex partnership status", or some equivalent, should also be in the clause. If not, "material status" must be defined as including same-sex relationship.

Ontario Human Rights law recognizes that discrimination against transgender workers is prohibited under the grounds of sex. However, we must clearly spell out the prohibited grounds as "gender identity" and "gender expression"

Checklist

- Does your agreement recognize same-sex relationships?
- Does your agreement have no-discrimination, anti-harassment and anti-violence clauses;
- Do these clauses include sexual orientation, same-sex partnership status and gender identity/expression as prohibited grounds,
- Does your agreement have mandatory, workplace human rights training for all employees and include sexual orientation and gender identity/expression issues;
- Is there a clear investigation/resolution process;
- Does your agreement have accommodation provisions for workers who are transgender, such as washroom accessibility;
- Does your agreement include clauses which might have a negative impact on transgendered workers, such as a gender specific dress code?

Employment-related Benefits

Typical employment-related benefits fall into two main categories: insured and non-insured.

Insured benefits such as pensions, health and dental benefits, and leave plans can be negotiated. The employer then secures coverage through an insurer such as Great West Life or Green Shield. As part of the package these insured benefits typically cover the employee's "spouse" and "dependent children".

Bereavement and family responsibility leaves, relocation expenses, employee/family discounts, subsidized family memberships and travel passes are typically non-insured.

Checklist

- Is the length of cohabitation (time living together) the same for same-sex and opposite sex couples?
- Is the method of proof of relationship the as it has been historically for opposite-sex couples?
- Does the method of proof require that the relationship be "public" (there can be safety issues involved for same-sex couples)?
- Does the collective agreement definition of parent include same-sex parent?
- Are the leave provisions for attendance at a birth or adoption gender neutral?
- Is the agreement's language clear that parental leave includes adoption leave?
- Does your drug plan include drugs for infertility, HIV/AIDS, hormone therapy, etc., without formularies and without annual or lifetime maximums? (A formulary is an approved and limited list of drugs, rather than any medication prescribed by your doctor).
- Does your medical benefit package include coverage for sex reassignment surgery, counseling and electrolysis?
- Does your agreement include return to work policies that accommodate transgender workers?
- Does the medical leave provision allow for part days?
- Does it respect privacy/safety issues such as a worker needing time for fertility treatment or insemination treatments or leave needed for gender reassignment medical and surgical procedures? Are the reasons for leave kept confidential?
- Do the life and long term disability insurance plans contain barriers such as pre-existing condition clauses or non-evidence maximums?
- Does your life insurance include a provision for a living benefit advance and conversion?
- Does the bereavement leave provision recognize same-sex partners and their family members? Does it respect privacy/safety issues?
- How are those benefits accessed? Do lesbian, gay and trans-identified workers have to out themselves in the workplace to access the benefits?

- Does the administrative process allow claim forms to be submitted to the insurer rather than the employer?
- Does the collective agreement and pension plan text clearly cover same-sex partners as surviving spouses?
- Did any lesbian or gay member die after April 17 1985? If so, was a survivor pension paid? If not, contact should be made with the estate to determine if there is an eligible surviving partner.
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The list of possible benefits and entitlements has an ever-extending horizon. Here is an extensive but not exhaustive list.

Insured

Registered pension plans
 Life insurance
 Accidental death & dismemberment
 Survivor income insurance
 Long term disability
 Major medical/extended care
 Dental care
 Vision care
 Drugs
 Family care, e.g. nursing home coverage
 Automobile insurance
 Travel insurance
 Legal plans

Non-Insured

Life insurance
 Bereavement leave
 Pregnancy/parental leave
 Adoption leave
 Family leave
 Marriage leave
 Child care leave/subsidies
 Leave for medical appointments
 Leave for relocation of spouse/family
 Relocation expenses
 Family tuition fees/subsidies
 Family memberships/admissions
 Employee/family discounts
 Travel passes/complimentary tickets
 Mortgage subsidies