

LGBTQ+ Collective Bargaining Model Language

Non-discrimination and Anti-harassment clauses:

- Despite gains made in legislation, homophobia (the irrational fear of gays, lesbians and bisexuals) and transphobia (the irrational fear of trans people) are still very real problems for many workers. Make sure that your collective agreement explicitly includes protection from discrimination and harassment for LGBTQ+ people. Many jurisdictions have now ruled that discrimination against trans people and gender diverse workers is prohibited under the definition of “sex”. However, these Federal level protections have been under attack and are likely to experience significant changes in the near future. Given our political landscape, our collective bargaining agreement will offer greater protection for LGBTQ+ staff as they do not rely upon other State or Federal laws.

Suggested Language: “The parties shall not discriminate against any employee because of age, race, national or ethnic origin, political or religious affiliation, sex, gender identity or expression, sexual orientation, marital or family status, disability, union membership or participation in the lawful activities of the union”.

Suggested Language: “The parties recognize the right of employees to work in an environment free from harassment based on age, race, national or ethnic origin, political or religious affiliation, sex, gender identity or expression, sexual orientation, marital or family status, disability, union membership or participation in the lawful activities of the union”.

FAMILY BENEFITS

Bargaining benefit coverage for your members and their families (if applicable) is a key negotiating priority. Review your agreements to ensure that everything from prescription drug plans to negotiated health benefits meet the specific needs of LGBTQ workers. Since 2008 in Connecticut has been legalized and this was extended nationwide since 2015. If same sex couples had previously established domestic partnerships or civil unions, those arrangements were automatically changed to marriages under the law in Connecticut. This State level protection may not be enough to cover LGBTQ+ families who were established in different States where laws are more under threat of change.

Suggested Language: Eligible dependents shall include: the employee’s spouse (including a married spouse or a common-law spouse of the same or opposite sex) and the employee’s children (including a biologically-related child, adopted child, stepchild, child under a guardianship order, and the child of the employee’s spouse where the employee intends to treat the child as their own). Application for benefits shall be kept confidential.

TIME AWAY FROM WORK

Leave provisions that unions have fought to include in collective agreements, or that are included in legislation, often don’t take into account what LGBTQ families look like, or why a LGBTQ person may need to take a leave.

Where to look:

- ☐ Leave of Absence
- ☐ Bereavement Leave
- ☐ Marriage/ Commitment Ceremony Leave
- ☐ Adoption/ Parental Leave
- ☐ Family Leave of Absence
- ☐ Transitioning Leave

LEAVE OF ABSENCE — TRANSITIONING

Leave of absence language is particularly important for trans workers. It is important to have language that specifically sets out the rights of workers to leave as well as access for workers on leave to sickness and accident benefits coverage. Since trans people transition in many different ways leave can be for medical or non-medical reasons. For the duration of all leaves trans workers should be eligible for any additional leaves to which they may be entitled (i.e. family leave, sick leave).

Suggested Language: An employee who provides a certificate from a health provider confirming that the employee requires a leave of absence in order to undergo the medical or non-medical procedure(s) related to a physical and/ or emotional change from one gender to another shall be granted a leave of absence without loss of service or seniority and will be eligible for sickness and accident coverage while absent.

General Transition Policy

Suggested language: The parties agree to the following general transition policy to cover transgender workers at work. The Board and the Union will make every effort to protect the privacy and safety of transitioning workers during and post-transition.

Upon request by a worker, The Board will update all worker records and directories to reflect the worker's name and gender change and ensure that all workplace-related documents are also amended. This may include name, employee badges, work identification, email addresses, organizational charts, health-care coverage and schedules. No records of the worker's previous name, sex or transition will be maintained post-transition unless required by law.

The Board will provide safe washroom and changeroom facilities to a worker during and after transition. The Board and the Union recognize that a transitioning worker has the right to use the bathroom of their lived gender, regardless of whether or not they have sought or completed medical transitioning.

Health-care benefit coverage for transition-related costs, and medical leaves of absence for transitioning workers will be provided/accommodated on the same terms as any other medical cost or leave.

Upon notification by an employee wishing to transition, or at the request of the Union, The Board will work with the union and the worker to tailor the general transition plan to the worker's needs."

The Board's shall provide coverage for the costs of gender affirming health care procedures and surgeries otherwise not covered by current health plans, including but not limited to pharmaceutical coverage for hormone replacement therapies, including youth transition care deemed medically necessary by employee's health provider.

The Employer shall respect an employee's chosen name and pronouns in all communications, medical records, and workplace interactions, regardless of their gender identity or expression.

HIV Services and Treatment

Suggested Language: The Board shall provide healthcare coverage otherwise not covered by current health plans for the following services and treatment:

- HIV Testing
- Pre-exposure prophylaxis (PrEP), including injectable treatment
- Post-exposure prophylaxis (PEP)
- Antiretroviral therapy (ART), including injectable treatment

ADOPTION/ PARENTAL LEAVE

LGBTQ+ workers need the same protection for maternity and parental leave as heterosexual members. Collective agreement language needs to contemplate LGBTQ+ workers in couples in all their diversity (i.e. man-man, woman-woman, etc.). It must also contemplate that these couples may have children together, either through birth or adoption. Adoption leave should be covered under parental leave.

Definition of Parent The collective agreement can use an inclusive definition of “parent” which states: “Parent” includes a person with whom a child is placed for adoption and a person who is in a relationship of some permanence with a parent of a child and who intends to treat the child as his or her own. (Note: we suggest you use “their” instead of “his or her”).

Maternity or pregnancy leave covers an employee who gives birth to a child. Parental leave is available to both parents of a child. Parental leave language also covers adoption situations.

Suggested Language: (in addition to standard maternity leave language): Upon two weeks’ notice in writing, an employee who is the parent of a child is entitled to a leave of absence of up to 16 weeks following the birth of the child or the coming of the child into the employee’s custody, care and control for the first time. The leave may begin no later than 52 weeks after the day the child is born or comes into the employee’s custody, care and control for the first time. An employee absent on parental leave shall be entitled to all the rights and benefits of an employee on maternity leave.