



**The Business of Inclusion:  
Raising the Bar on LGBT Diversity**

As an affiliate of the American Bar Association, The LGBT Bar calls on all of our members to embrace the ABA's aspiration to

“eliminate bias and enhance diversity ... [through the] ... promotion [of] full and equal participation in ... our profession, and the justice system by all persons and to eliminate bias in the legal profession and justice system.”

That commitment to justice and equality is more than just a matter of employee benefits. Unlike the corporate sector, legal organizations and professionals are called to uphold the highest standards of equality. Indeed, we are the only profession with a sworn duty to uphold and defend the rule of law. This dedication must necessarily expand to, and be reflected in, the culture of our firms, associations and businesses.

No matter the area of law in which they focus, firms and companies operate in a diverse community that includes clients and employees who encompass a wide array of genders, races, ethnicities, disabilities and other identities. Firms that work to mirror their clients are better able to serve this diverse marketplace. A culture of openness and inclusion increases employee and client satisfaction, productivity and retention.

### **More Than a Number**

A workplace that fosters and capitalizes on diversity is better able to serve the needs of clients and employees alike. Successful diversity management requires fostering a professional environment that is respectful, accepting and affirming of all employees. Eliminating bias and enhancing diversity also means expanded hiring, retention and promotion of diverse individuals within all levels of the firm.

LGBT and other minority associates and clients must understand that they are not simply a number, but that the firm values them and takes concerted efforts to create an environment in which they can thrive.

A workforce that reflects the communities we serve is critical for firms of every size. As the corporate world recognizes and caters to the LGBT community as a crucial market, companies also expect that the firms with which they do business will be LGBT-affirming and representative as well. Firms should be actively identifying ways to recruit diverse attorneys and help them succeed and flourish.

### **The Benefits of Benefits**

Pro-LGBT policies and openly LGBT personnel help law firms recruit and retain lucrative corporate clients and the best and brightest employees.

A firm's commitment to its LGBT employees and clients should include:

- Involving senior leadership in creating a culture that is inclusive of LGBT lawyers;

- Including sexual orientation and gender identity and expression in company diversity statement;
- Instituting diversity or equal employment opportunity training;
- Taking affirmative steps to ensure the professional development of LGBT lawyers;
- Sponsoring LGBT-related MCLE events, bar organizations, *pro bono* opportunities and causes;
- Involving LGBT lawyers in recruiting and hiring activities and affirmatively recruiting LGBT law students and lawyers; and
- Ensuring that employee benefits are provided to LGBT lawyers by:
  - Offering benefits for same-sex spouses and partners;
  - Offering domestic partner paternity and maternity leave;
  - Offering domestic partner bereavement leave;
  - Helping defray the cost of nontraditional family planning;
  - Adjusting gross salary for employees in marriages, domestic partnerships or civil unions to offset the federal tax burden; and
  - Offering health insurance plans that include gender transition coverage.

### What “Welcome” Means

Firms can institute a number of simple, but profoundly important, policies and programs to ensure LGBT clients and employees feel truly welcome. Our recommendations reflect The LGBT Bar’s own expertise in this area, and incorporate recommendations from the ABA’s Commission on Sexual Orientation and Gender Identity.

Make sure your “Welcome Mat” includes:

- Mentorship programs within the firm to help LGBT associates navigate and understand firm culture;
- Internal policies that ensure firm values, and client interests, do not clash via representation that negatively impacts the LGBT community;
- Creating a plan that outlines your entity’s specific diversity goals and that includes detailed action steps, timelines and steps for accountability;

- Appointing a Diversity Director to oversee the implementation of the diversity plan;
- Establishing an LGBT Committee to promote opportunities for LGBT members;
- Developing programming (e.g., fellowships) directed at diverse law students and practitioners;
- Publishing articles on topics of concern to LGBT constituencies; and
- Collaborating with other ABA and non-ABA entities to co-sponsor LGBT-related programming and projects.

### **Policies that Honor People**

At a minimum, firms must not discriminate on the basis of race, color, sex, religion, national origin, sexual orientation or gender identity and expression.

In addition, remember to distinguish between gender identity and expression, and sexual orientation. Gender identity/expression and sexual orientation are two different types of characteristics and should not be combined or confused with one another.

The term “transgender” is used to describe people whose gender identity does not correspond to their birth-assigned sex and/or the stereotypes associated with that sex. Firms and organizations are urged to strengthen their inclusion policies by offering coverage for transgender employees who wish to transition. Transitioning – the process that many transgender people undergo to bring their outward gender expression into alignment with their gender identity – can be a medically necessary treatment for transgender individuals.

- Offer health plans that assist with the costs transgender lawyers and associates pay for such transition-related procedures;
- Offer coverage throughout the entire process—pre-operative, operative and post-operative—to help ensure retention of current lawyers as well as the recruitment of prospective employees who wish to invest professionally in a diverse and open work environment;
- Contract with a diversity professional or have in-house diversity director conduct an organization-wide training to address ways coworkers can understand and support a colleague who undergoes a transition; and
- Notify colleagues of gender transitions happening at the firm, and the individual’s transition timeline.

### **Couple and Family Benefits**

Currently, 35 states and the District of Columbia celebrate and affirm the marriages of lesbian and gay couples. The rest of the country, though changing rapidly, does not yet provide such recognition.

In states where marriage equality is the law of the land, firms must offer all benefits to married couples regardless of their gender or sexual orientation. In other states, firms must strive to offer these same benefits in order to remain competitive.

- Be sure to clearly state that equal benefits are available at your firm;
- Invest in policies of total inclusion regardless of federal, state or local legislation;
- Adopt and advertise benefit packages for partnered LGBT attorneys and associates that mirror those for their straight coworkers.

Rather than meeting minimum requirements set by the state or local jurisdiction, strive to offer the maximum benefits possible to all firm employees, regardless of sexual orientation, gender identity and expression, or family status.

### **“Grossing Up”**

LGBT staffers who have their domestic partners’ benefits come from their employer’s benefits packages pay more taxes than married people who list their spouses under that same benefits package. Organizations’ Human Resource Departments should clearly state that LGBT employees’ salaries will be “grossed up” to compensate for the amount that the government takes in taxes for their same-sex domestic partners’ benefits coverage. The “grossing up” procedure should be clearly stated in new hire orientations, interviews and the written policies of Human Resources Departments.

### **Other Critical Benefits**

- Parental leave benefit packages for LGBT partners and associates;
- Subsidies or benefits related to adoption, insemination and surrogacy;
- bereavement leave for LGBT lawyers and staff whose partners or children become sick, injured or pass away.

### **Measuring LGBT Diversity: Best Practices and Resources**

Because of the lack of objective criteria to measure LGBT diversity, many law firms have not taken steps to “count” LGBT associates and partners. The LGBT Bar recommends that all firms engage in this process in order to communicate that LGBT diversity is important to an organization and to ensure that there are accurate numbers of LGBT attorneys within an organization.

Measuring LGBT diversity is a positive act that exhibits a firm’s or legal department’s commitment to inclusion to all current and possible future employees and clients. These recommendations will make measuring LGBT diversity easier:

- Develop and support a culture of LGBT inclusion from the top down;
- Commit to a true culture of privacy so that when a document is anonymous, your employees truly believe it to be private;
- Create an affinity group that allows people to self-identity not only as LGBT but also as LGBT allies, capturing the energy behind proud parents of LGBT youth as well as friends of LGBT people;
- Host LGBT diversity receptions and events; and
- Include discussions of your firm’s dedication to LGBT support within diversity efforts.

**LGBT Bar members can download a sample survey, and recommended survey language, in the [Members-Only section of our website](#).**

### **Inclusion Within, and Beyond, the Firm**

There are a number of important ways to signal to external audiences that diversity is valued at your firm. When issuing or responding to RFPs, for example, use the opportunity to inform potential clients of internal steps taken to further LGBT diversity.

For proposals and other external documents, consider including:

- Data related to the number of “relationship” partners who are diverse, including LGBT attorneys;
- Information about work allocation, including data related to the number of diverse attorneys working on the client’s matters, either matter-by-matter or overall;
- Information regarding recruitment efforts, even if unsuccessful;
- Information about mentoring programs;
- Information related to diversity efforts, including innovative programming, recruitment or retention efforts, sponsorship of diverse organizations, etc.; and
- Associate-to-Partner conversion rates.

Firms should actively review, and accept, pro-bono efforts that help advance legal equality and inclusion for the LGBT community. Taking on pro-bono representation affecting the LGBT community has a significant “word-of-mouth” marketing effect: potential and current employees, LGBT or not, generally feel positive when a firm takes on pro-bono impact litigation that furthers civil rights.

## Pledge Your Commitment to LGBT Inclusion

The LGBT Bar has worked with companies' and firms' commitment to LGBT diversity to develop the gold standard statement of inclusion. Leaders within their organizations are encouraged to sign onto The Bar's statement and to include it in Human Resources Policy/Personnel Manual as a way to visibly support firm or corporate diversity. This pledge, when signed by a senior manager or chief executive, will provide a visible and tangible sign of commitment to supporting an overall diverse workforce.

**Download The LGBT Bar's pledge, and other materials for Corporate Counsel and Human Resource Professionals, from the [Corporate Counsel Resources webpage](#).**

*The National LGBT Bar Association is a national association of lawyers, judges and other legal professionals, law students, activists and affiliated lesbian, gay, bisexual and transgender (LGBT) legal organizations. The LGBT Bar promotes justice in and through the legal profession for the LGBT community in all its diversity. The LGBT Bar aspires to improve the quality of life for LGBT legal practitioners until the time that LGBT legal professionals are recognized without discrimination, stigma or negative bias.*

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