

Recruiting, Hiring, and Retaining LGBT Lawyers

Recruiting, Hiring, and Retaining Lesbian, Gay, Bisexual, and Transgender Lawyers: Strategies for Employers . . .

(Note: This is an online version of a hard copy brochure available from the NALP bookstore.)

More and more employers in the legal community are taking action to ensure that lesbian, gay, bisexual, and transgender (LGBT) lawyers are treated fairly and compensated equally within their organizations. They have a number of very good reasons for doing so.

Employers compete to hire and keep the best lawyers. The best lawyers choose the employers that offer the best work environment, the best compensation, and the best benefits. Therefore, employers who demonstrate a commitment to treating and compensating LGBT lawyers fairly and equally enhance their ability to hire and keep the best lawyers.

- The number of U.S. companies including sexual orientation and gender identity in their nondiscrimination policies has increased dramatically in recent years. Employers that include sexual orientation and gender identity in their nondiscrimination policies enhance their ability to secure the business of these companies.
- State and local governments are passing laws prohibiting discrimination on the basis of sexual orientation and gender identity. Currently, 20 states have laws that prohibit discrimination based on sexual orientation, and 12 of those also extend similar protection to gender identity. The District of Columbia, and scores of municipalities and counties also have similar laws. Employers with offices in these jurisdictions must by law treat and compensate LGBT lawyers fairly and equally.
- Despite many employers' commitment to equality in their organizations for LGBT lawyers — and the good reasons for their commitment — important studies by major bar associations have found that LGBT lawyers still experience discrimination in the workplace.

Included here are specific strategies for creating a fair and equal workplace for LGBT lawyers as suggested in the bar associations' studies. Many are strategies that employers have already adopted to improve the workplace for women and people of color. Though it may not be possible for every employer to implement every suggestion, at a minimum employers should extend to LGBT lawyers the same benefits they extend to heterosexual lawyers.

Nondiscrimination Policy

- Adopt and implement a nondiscrimination policy expressly prohibiting discrimination and harassment on the basis of sexual orientation as well as on the basis of gender identity or expression.
- Include in the nondiscrimination policy a statement that AIDS and other HIV-related conditions are treated as any other disability protected by law.
- Enforce the nondiscrimination policy with clearly established grievance, investigation, and resolution procedures. Implement gender transition guidelines to ensure consistent treatment of employees undergoing a gender transition.
- Publicize the nondiscrimination policy and procedures throughout the workplace and in all recruitment and marketing materials, including the firm website.
- Appoint a senior lawyer with significant authority to lead the organization's efforts to achieve fair and equal treatment for LGBT lawyers in recruitment, hiring, retention, advancement, and compensation.

Recruitment and Hiring

- Send recruitment materials to LGBT law student organizations (such as “OutLaw” student groups at law schools), and, when possible, encourage lawyers to visit law schools to meet with students for educational and professional programs related to LGBT issues.
- Train interviewers to avoid inappropriate areas of inquiry such as sexual orientation, gender identity, or marital status, but encourage them to explore appropriate areas such as LGBT-oriented activities or employment listed on candidates’ résumés.
- Include LGBT lawyers, or lawyers sensitive to issues facing LGBT lawyers, on hiring committees and in all aspects of the hiring process to promote a more sensitive and fair process.
- Identify and publicize the names of LGBT lawyers, or lawyers sensitive to issues facing LGBT lawyers, to answer applicants’ questions about the experiences of LGBT lawyers in the organization.
- Be sure your NALP Form reflects the number of openly LGBT lawyers in your firm. See tips on collecting demographic information.
- Include in the organization’s résumés, brochures, website, and other communications the pro bono and other services provided by its lawyers to the LGBT community.
- Include in “welcome packets” the organization’s nondiscrimination policy, a list of LGBT-sensitive contacts, and lists of local LGBT community resources, publications, and professional associations, as well as a calendar of local LGBT events.
- Join or work with the National Lesbian and Gay Law Association (<http://www.nlgla.org>) and affiliate organizations (<http://www.nlgla.org/affiliates.html>).
- Participate in the Human Rights Campaign Foundation’s Corporate Equality Index to demonstrate positive corporate policies (<http://www.hrc.org/issues/ceihome.asp>).
- Attend LGBT-focused conferences with career fairs such as Lavender Law (<http://www.lavenderlaw.org>).
- Highlight diversity initiatives on the firm’s website, including Equal Employment Opportunity policies, domestic partner benefit policies, and employee resource group (affinity group) information.

The Workplace

- Provide new LGBT lawyers with senior lawyer mentors who have the authority, commitment, and sensitivity to fulfill a mentor role effectively.
- Pay LGBT lawyers’ membership dues and expenses for LGBT professional associations, and support the activities of lawyers in these associations, including sponsorship of tables at annual dinners and fundraising events.
- Provide for lawyers and staff educational and training programs on the legal and social aspects of sexual orientation and gender identity discrimination and harassment.
- Acknowledge and include in newsletters, luncheons, meetings, and other programs the activities of LGBT lawyers and other topics of particular interest to LGBT lawyers and staff.
- Invite lawyers to identify domestic partners when requesting information for organization directories.
- Use inclusive terms such as “guest” or “partner” rather than “spouse” in event invitations.

Compensation and Benefits

- Explicitly list the benefits the firm provides.
- Provide health and other insurance benefits to the same-sex domestic partners of lawyers on the same terms that such benefits are provided to the opposite-sex spouses of lawyers, and to the children of LGBT lawyers or their same-sex domestic partners on the same terms that such benefits are provided to children of heterosexual lawyers or their opposite-

sex spouses. Compensate for the taxation of domestic partner health insurance coverage as income. Extend COBRA benefits.

- Be sure health insurance policies entitle transgender employees to the same coverage as other employees. Most commercial health insurance plans in the U.S. specifically exclude coverage for treatment related to a gender transition, and sometimes the language is sufficiently broad to also exclude non-transition related health care to transgender persons.
- Provide transgender wellness benefits — that is, health benefits that include mental health counseling, hormone therapy, medical visits, and surgical procedures, in addition to short-term medical leave, without exclusion for treatments related to a gender transition or reassignment.
- Provide sick leave, FMLA leave, care-taking leave, bereavement leave, and other family leave benefits to LGBT lawyers with needs relating to their children or family, same-sex domestic partners, and the children or family of their same-sex domestic partners on the same terms that such leave is provided to heterosexual lawyers.
- Provide relocation benefits and employee assistance programs to LGBT lawyers, their children, same-sex domestic partners, and the children of their same-sex domestic partners to the same extent that such benefits are provided to heterosexual lawyers, their children, opposite-sex spouses, and the children of their opposite-sex spouses. Publicize these benefits on the firm's website.
- Support a firm-wide diversity council or committee that includes LGBT issues. Organize employee resource groups (affinity groups), including one focusing on LGBT issues.

Resources

- The NALP website features a “Resource Center” with GLBT resources currently including a contact list, an annotated resource bibliography, a list of organizations/resources for building better relationships with the GLBT community, and information on the Solomon Amendment.
- The NALP GLBT Section publishes articles in the NALP *Bulletin* and presents programs at the NALP Annual Education Conference on topics related to nondiscriminatory hiring and retention of GLBT lawyers. This Section also contributes new information to the GLBT Resources on NALP's website.
- The National Lesbian and Gay Law Association (<http://www.nlgla.org>) hosts the annual Lavender Law Conference, which includes a career fair for law students and legal employers.
- The Human Rights Campaign Foundation (<http://www.hrc.org/workplace>) provides information on such workplace issues as the Employment Non-Discrimination Act, nondiscrimination laws and policies, and domestic partnership benefits.
- A number of state and city bar associations have committees focusing on LGBT issues.

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