



THE STATE BAR OF CALIFORNIA
Center for Access and Fairness



Creating a
Model Work
for Environment
Lesbian, Gay
Bisexual and
Transgender
Individuals


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For additional copies of this brochure:
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Creating a Model Work Environment for Lesbian, Gay, Bisexual and Transgender Individuals

This brochure is designed to provide model practices for legal employers to follow in promoting a nondiscriminatory workplace for employees who are lesbian, gay, bisexual and/or transgender (“LGBT”). The brochure has three components:

- 1) an introductory section of basic definitions;
- 2) a set of specific recommendations regarding employment policies and procedures, benefits and training; and outreach, hiring and retention; and
- 3) model practices or policies currently used by some employers in California.

Definitions



Substantial portions of these definitions are taken from publications of the Transgender Law Center.

LGBT is an umbrella term that stands for lesbian, gay, bisexual and transgender.

Sexual Orientation refers to a person's emotional and sexual attraction to other people based on the gender of the other person. A person may identify his or her sexual orientation as heterosexual, lesbian, gay, bisexual or queer. It is important to understand that sexual orientation and gender identity are two different things. Not all transgender people identify as gay, lesbian, bisexual or queer. And not all gay, lesbian, bisexual and queer persons display gender non-conforming characteristics.

Gender Identity refers to a person's internal, deeply felt sense of being either male, female, something other or in between.

Gender Expression refers to an individual's characteristics and behaviors such as appearance, dress, mannerisms, speech patterns and social interactions that are perceived as masculine, feminine or androgynous.

Gender Non-Conforming refers to someone who has or is perceived to have gender characteristics and/or behaviors that do not conform to traditional or societal expectations.



Transgender is an umbrella term that can be used to describe people whose gender expression is non-conforming and/or whose gender identity is different from their birth-assigned gender. “Trans” is often used when speaking, as an abbreviated version of “transgender.”

Transition in the transgender context often consists of a change in style of dress, selection of a new name and a request that people use the correct pronoun when referring to a transgender person. Transition may, but does not always, include necessary medical care like hormone therapy, counseling and/or surgery.

Coming out of the closet describes the voluntary public announcement of sexual orientation. Being “out” means not concealing one’s sexual orientation. Being “out” can sometimes look different for transgender employees as some will choose not to be open about the fact that they are transgender. However, this does not mean the employee is concealing his or her gender identity. For instance, someone who has transitioned from male-to-female is very “out” about being a woman; she just may not be comfortable being “out” as a transgender woman.

Employment Policies & Procedures



>> **What should be an organization's first steps toward creating a model work environment for LGBT individuals?**

- If not already present, add “sexual orientation” and “gender identity” to your organization’s non-discrimination policy.
 - > Model Language: “This organization is committed to promoting diversity and does not discriminate based upon race, color, religion, sex, gender identity, sexual orientation, national origin, marital status, age, political affiliation or disability.”
- Prohibit derogatory statements or actions directed against LGBT individuals and communities, and quickly admonish those who make such statements.
- Do not discriminate against LGBT clients in the provision of services or agree to the discriminatory demands of clients.
- Do not wait for LGBT individuals to make a formal complaint before acting against discrimination, derogatory statements or actions.

>> **How does an organization show its commitment to promoting LGBT equality in the workplace?**

- Create and adopt policies that clearly state the organization's commitment to promote diversity, end discrimination and prevent violence and harassment of any kind on the basis of sexual orientation or gender identity.
- On an annual basis, ensure that all policies and procedures, including those regarding complaints/grievances, are updated to include sexual orientation and gender identity when appropriate and ensure that the updated policies and procedures are distributed to all employees.

>> **How can an organization address transgender workplace equality concerns in particular?**

- Include both "gender identity" as well as "sexual orientation" in your organization's non-discrimination policy. The inclusion of "sexual orientation" alone is insufficient, as discrimination based on sexual orientation is different from discrimination based on gender identity.
- Be sure that job descriptions are not gender-specific.
- Refrain from gender-specific dress codes. If your organization has a dress code, ensure employees may dress according to their gender identity, in compliance with professional dress codes and rules applicable to all employees.
- Create a bathroom access policy which allows access based on a person's gender (someone who has transitioned from female-to-male has a male gender identity, for instance). In addition, installing and/or designating single-use bathrooms as gender neutral increases access for a wide variety of employees and clients.

Benefits & Training



>> How can an organization ensure that its work benefits provide for LGBT employees?

- Provide equitable benefits and privileges to all employees, including health benefits (medical, dental and vision), relocation benefits, care-taking and bereavement leave, access to facilities and services, access to employee assistance programs and retirement and survivor benefits.
- Ensure your organization's health insurance plans cover transition-related care for employees who are transgender.
- If your organization has a life insurance benefit, ensure the plan will recognize a registered domestic partner as the default beneficiary.
- Provide the domestic partners, dependents and children (biological, adopted or step) of LGBT individuals and couples the same benefits as the organization grants the spouses, dependents and children of heterosexual individuals and couples.
- Recognize all employee affinity groups equally, including LGBT groups.
- Pay for employee time and fees for attending diversity awareness trainings and conferences.
- Recognize, sponsor and support involvement in LGBT professional organizations, events and pro bono efforts.



>> **What steps can an organization take to educate all employees about LGBT workplace issues?**

- Require periodic training of all employees, including appropriate training for human resources, managerial and supervisory personnel, on diversity and anti-discrimination-related issues. The training should include content specific to sexual orientation and gender identity.
- Training content on sexual orientation and gender identity should be designed to increase knowledge, awareness and sensitivity toward LGBT employees and their work-related concerns, such as coming out, health benefits, gender transition, diverse family structures, co-worker relations, information and referrals to resources in the LGBT community, and availability of materials and resources (through an in-house library if possible) for interested individuals.
- Include content on how your organization can prepare for a transgender employee's on-the-job transition.

Outreach, Hiring & Retention



>> **How can an organization attract LGBT applicants and retain LGBT employees? What should an organization do to show its commitment to LGBT diversity in the workplace?**

- Promote an equal opportunity workplace culture by encouraging nondiscriminatory recruitment, hiring and promotion of openly LGBT and LGBT-sensitive managers and employees throughout the organization.
- Ensure recruitment materials include information about nondiscrimination policies, domestic partner benefits and statistics on the number of openly LGBT employees.
- If possible, include LGBT personnel on the hiring committee.
- Offer the names of LGBT and LGBT-sensitive personnel within the organization to speak to new recruits. If your organization has a mentorship program, allow a new employee to request a mentor who is LGBT or LGBT-sensitive.
- Recruit through LGBT bar associations, law student groups and career days at colleges and universities, as well as by advertising in LGBT media. Network with LGBT organizations and LGBT recruitment services.



- Provide LGBT employees equal opportunities to network and socialize, such as inviting domestic partners whenever spouses are invited and listing domestic partners when spouses are listed.
- Create career development and mentoring programs inclusive of LGBT employees.
- Not all LGBT employees will bond together simply because of their sexual orientation or gender identity. Be sensitive to the unique personalities of individual employees, mindful that sexual orientation (like gender identity) is only one aspect of a person's personality.
- Also, not every LGBT employee will be interested in working on LGBT recruitment or personnel policies. Some LGBT employees may want to contribute to the organization in other ways and may feel tokenized if they are asked to be the “lesbian voice” or the “transgender voice” on an issue or organization effort. Avoid this dynamic by making opportunities open to everyone and by not having expectations about an LGBT employee's desire to participate or reasons for not participating.

MODEL PRACTICES

Please visit the Human Rights Campaign's Report "Best Practices to Work for GLBT Equality" at <http://www.hrc.org/placestowork/> for a listing of organizations that have model practices in place.

For the Minority Corporate Counsel Association's Report, "Perspectives from the Invisible Bar: Gays and Lesbians in the Profession," please visit: <http://www.mcca.com/index.cfm?fuseaction=page.viewPage&PageID=612>

For "The Diversity Inc Top Ten Companies for GLBT Employees," please visit: <http://www.diversityinc.com/public/1758.cfm>

RESOURCES

Federal Globe (Gay, Lesbian, Bisexual, Transgender Employees of the Federal Government)
Post Office Box 23922
Washington, D.C. 20026

Human Rights Campaign
1640 Rhode Island Avenue, N.W.
Washington, D.C. 20036
(202) 628-4160
<http://www.hrc.org/>

Lambda Legal
3325 Wilshire Boulevard, Suite 1300
Los Angeles, CA 90010-1729
(213) 382-7600
<http://www.lambdalegal.org/>

Minority Corporate Counsel Association
1111 Pennsylvania Avenue N.W.
Washington, D.C. 20004
(202) 739-5901
<http://www.mcca.com/>

National Center for Lesbian Rights
870 Market St. , Suite 370
San Francisco, CA 94102
(415) 392-6257
<http://www.nclrights.org/>

Out & Equal™ Workplace Advocates
155 Sansome Street, Suite 450
San Francisco, CA 94104
(415) 694-6550
<http://www.outandequal.org/>

Transgender Law Center
870 Market Street, Suite 823
San Francisco, CA 94102
(415) 865-0176
<http://www.transgenderlawcenter.org/>

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The purpose of this booklet is to provide general information on the law, which is subject to change, and is not intended to provide legal advice. If you have a specific legal problem, you may want to contact a lawyer.

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