

Report of The Bar Association of San Francisco
Equality Subcommittee on

LESBIAN, GAY, BISEXUAL, AND TRANSGENDER ISSUES

November 2007



THE BAR ASSOCIATION OF
SAN FRANCISCO



PREFACE

The Bar Association of San Francisco (“BASF”) has been a pioneer among bar associations working to ensure workplace equity for lesbian, gay, bisexual, and transgender (“LGBT”) lawyers. Law firms in the Bay Area and beyond have actively embraced our initiatives.

In 1986, BASF established a Committee on Equality which made recommendations to BASF’s Board of Directors on how to eliminate barriers to the advancement of racial minorities, women, lesbians and gay men, and lawyers with disabilities in the San Francisco legal community. BASF established its Committee on Sexual Orientation Issues in 1990 to address the specific needs of gay and lesbian lawyers, and later broadened its focus to include all LGBT lawyers.¹ In 1991, BASF produced a comprehensive Report entitled *Creating An Environment Conducive to Diversity, A Guide for Legal Employers on Eliminating Sexual Discrimination*. Responding to the call to create new policies to promote LGBT inclusion, many San Francisco firms pledged to embrace the recommendations in this groundbreaking Report.

While BASF periodically has gathered and circulated information about employment issues facing LGBT lawyers, BASF’s most recent guidance on best practices was released in 1996. Much has changed since then in the legal landscape—as well as in our law firms. The Bay Area legal community has been a leader in pushing for progress in workplace equality, and while many think of San Francisco as a place where LGBT people thrive and are integrated into all aspects of civil life, much remains to be done.

This Report reflects the need to focus on best practices to ensure that the doors are open to LGBT lawyers and that promotion and retention goals also are embraced. The Board of Directors of BASF thanks the Equality Subcommittee for its extraordinary work and congratulates the Bay Area’s legal employers for the progress we have made together.

As the Rev. Dr. Martin Luther King Jr. wrote, “The time is always right to do what is right.” We have more to accomplish, and the time to do so is now. We look forward to working with the greater legal community to achieve full workplace equality, diversity and inclusion for all attorneys.



Nanci Clarence, BASF President 2007

ACKNOWLEDGEMENTS

The Bar Association of San Francisco (BASF) thanks the contributors to the Lesbian, Gay, Bisexual and Transgender Equality Report, listed in Appendix D. A special thanks to Morgan, Lewis & Bockius LLP for underwriting the cost of printing this Report.

¹ The Committee on Sexual Orientation Issues was established as a Subcommittee of the Equality Committee. It was known as the Committee on Gay and Lesbian Issues until 1995.

EXECUTIVE SUMMARY

We address this report to you, the leaders and managers of law firms and corporate law departments. Your colleagues — all volunteers — wrote the Report. Some of us are lesbian, gay, bisexual, or transgender. Some of us are heterosexual. Some of us either now are or have been managers in our firms or companies. All of us have insights into how the legal workplace looks from the LGBT perspective.

Today and for the foreseeable future, the talent pool from which legal employers draw will scrutinize the personnel practices of law firms and corporate law departments for fairness and inclusiveness. A similar trend exists among clients, who more and more consider the demographics, culture, and policies of their outside counsel when selecting representation. How well a legal office treats its LGBT attorneys increasingly matters to a broad spectrum of potential stakeholders — not just to LGBT attorneys. To these people, a firm's stand on LGBT issues in the workplace is emblematic of the institution's overall fairness, inclusiveness, and flexibility.

So in 2007, while BASF acknowledged the tremendous advances legal employers have made in creating hospitable workplaces for LGBT employees, BASF recognized the time had also come to consider areas still needing improvement. BASF delegated the task of reviewing those areas to our Subcommittee. We've tried to include in this Report facts you may not have known, points of view that you may not have considered, and concrete suggestions for enhancing fairness toward your LGBT attorneys.

We cite results from a California State Bar survey showing that many LGBT attorneys continue to suffer discrimination, but do not report it to management. The same survey revealed that significant percentages of people in other groups who experienced discrimination did report it to supervisors. This may surprise you, but it did not surprise us. Despite the great advances in equality of opportunity for LGBT lawyers in the last 20 years, problems persist, even in the Bay Area.

We understand and respect the demands on your time. If you are the manager or senior partner of a large legal office, we ask that you personally read *at least* the Introduction and the detailed discussions on:

- Leadership and Culture; and
- Professional Development.

Only *your* personal involvement in these areas will make the critical difference in your office's performance. For example:

- Whether you know it or not, your organization probably includes LGBT professionals. You, as a leader, should acknowledge in plain English that you welcome LGBT employees in your workforce, and that your institution values them. This simple gesture of communicating expressly that you value the contributions of LGBT employees on the same basis as the contributions of others can do wonders for the productivity and morale of LGBT attorneys.

- Almost no junior lawyer develops properly without mentoring. For a host of subtle reasons, LGBT lawyers may face extra obstacles in finding mentors. Do not allow lack of mentoring to stifle the development of your talented junior LGBT lawyers. The discussion on Professional Development tells you how to set the right tone for fair and inclusive mentoring, and how to avoid squandering talent that your office may have worked hard to recruit.

On the topics of Benefits, Training, Recruiting/Hiring, Marketing/Philanthropy/*Pro Bono*, and Transgender Lawyers and Transgender Issues, we ask that you assign the careful review and study of each section to the appropriate manager or leader in your organization. Give each manager or leader a mandate to report back to you promptly on whether your office already follows best practices in these areas, and — if not — when it will take steps to do so. Appendix E provides a useful checklist that your organization can use to audit its practices.

One topic above all others — Benefits — requires intense scrutiny and careful attention to detail in forging solutions. At the risk of belaboring the obvious, this is owing to the serious financial consequences that LGBT attorneys, their partners, and other family members can face when they encounter a gap in benefits coverage. An employer's commitment to providing LGBT employees with benefits equal to those it provides its non-LGBT employees is the single most important and objective litmus test of the organization's commitment to inclusiveness and fairness toward LGBT people.

As the Report describes, many employers also lack familiarity with transgender issues. Preliminary data suggest that transgender lawyers may face even more difficult barriers to workplace fairness. Throughout the Report, and in the section on Transgender Lawyers, there are recommendations to assist you in understanding the issues and achieving a truly inclusive workplace.

This Report, properly used, will benefit your business. It will help you recruit, retain, and advance excellent lawyers, and create a flourishing culture of inclusion and fairness. We learned a lot by researching and writing this Report. We hope you'll learn interesting and valuable things by reading it.

CONTACT

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I. INTRODUCTION

BASF presents this information to assist the leaders of law firms and corporate law departments who want to retain and advance excellent lawyers, create a flourishing culture of inclusion and fairness, and attract top talent to their organizations. While many legal employers have generally pledged their commitment to equal opportunity for lesbian, gay, bisexual, and transgender (“LGBT”) lawyers, concrete implementation has faltered even as many positive strides have been made.

An earlier gap between the promise of fairness and the limitations of reality for LGBT lawyers was highlighted previously. In 1991, BASF issued its first manual of “best practices” to deal with the concerns of lesbian and gay attorneys in the legal work place.² Five years later, BASF surveyed BASF member firms to determine the extent to which guidance in the 1991 manual had been implemented. The results were mixed.³ While 100% of the 64 firms and corporate law departments responding to the 1996 survey said that they were committed to equal opportunity for lesbian and gay lawyers, implementation of specific steps to provide that opportunity lagged. For example:

- Only about 62% of firms responding had adopted a non-discrimination policy that included sexual orientation;
- Only 34% offered health benefits to lesbian and gay domestic partners on the same terms as heterosexual spouses;
- Only 30% had at least one lesbian or gay man on its hiring committee;
- Only 14% reported gay- or lesbian-related *pro bono* services on the firm resume; and
- Only 9% had a policy against bias on the basis of sexual orientation in performance reviews and work assignments.⁴

In 2007, the situation for LGBT lawyers in the Bay Area and elsewhere is much improved. In the 2007 Human Rights Campaign “Corporate Equality Index,” 195 corporations and law firms nationwide achieved a 100% rating in their treatment of LGBT employees.⁵

² *Creating an Environment Conducive to Diversity: A Guide for Legal Employers on Eliminating Sexual Orientation Discrimination*, BASF (1991) <www.sfbbar.org/lgbt>. This was the first published study of sexual orientation bias by an organized bar association. See Jennifer Durkin, *Queer Studies I: An Examination of the First Eleven Studies of Sexual Orientation Bias by the Legal Profession*, 8 UCLA Women’s L.J. 343 (1998) (hereinafter “*Queer Studies*”).

³ *Employment Policies for Gay and Lesbian Attorneys*, BASF (1996) <www.sfbbar.org/lgbt>.

⁴ *Employment Policies for Gay and Lesbian Attorneys*, BASF (1996), pp. 13, 17, 23, 31, 34.

⁵ A list of the employers that have scored 100% on the Human Rights Campaign Corporate Equality Index is attached as Appendix B. This Index rates companies regarding their performance in a number of categories, including LGBT-focused non-discrimination policies and training, domestic partner benefits and transition-related insurance coverage for transgender employees (see Sections III.B and G *infra*), support for LGBT employee groups, sponsorship of LGBT organizations, and responsible conduct not inconsistent with LGBT equality. The full report may be found at http://www.hrc.org/documents/HRC_Corporate_Equality_Index_2008.pdf. Notably, the Index is not tailored to legal employers and does not measure a number of the items described herein as best practices. It is a

BASF is pleased that Bay Area law firms are well-represented among the top 195. Also, many Bay Area companies made the top grade, and represented such diverse industries as energy, household products, financial services, and computer technology. BASF is proud that its work on LGBT issues in the past two decades likely helped to encourage these results.

Despite these advances, there is evidence of continuing challenges for LGBT attorneys in the workplace. A 2006 report of the State Bar of California described the results of the State Bar's 2005 online poll of California attorneys regarding their perceptions of discrimination they had personally experienced or witnessed. The poll surveyed women, people over the age of 40, ethnic minorities, and LGBT people.⁶ Respondents in all groups indicated that they had experienced some level of workplace unfairness because of their backgrounds. While the data sample of transgender respondents was small, the *2006 California State Bar Report* suggested that transgender attorneys may face significantly higher rates of unfair treatment in the workplace than other groups measured.⁷

Notably, the *2006 California State Bar Report* also reflected that *none* of the many LGBT lawyers who indicated they had experienced workplace discrimination reported such perceived mistreatment to supervisors.⁸ This is a startling statistic. By contrast, 51 percent of female lawyers, 40 percent of lawyers over 40 years old, and 52 percent of minority lawyers who felt they had experienced discrimination *did report it* to management.

It is possible that, even today, LGBT attorneys, unlike attorneys in the other categories surveyed by the California State Bar, do not report discrimination against them because they believe their concerns as LGBT people will not be treated seriously by their employers. Maybe some LGBT attorneys do not complain because they do not want to self-identify as LGBT, perhaps fearing that in doing so they will experience negative consequences in the workplace,⁹

helpful barometer, however, of the organizations that have already generally demonstrated a strong commitment to LGBT equality.

⁶ *Challenges to Employment and the Practice of Law Facing Attorneys from Diverse Backgrounds*, State Bar of California (2006) (hereinafter "*2006 California State Bar Report*"), <<http://calbar.org/diversitysurvey>>.

⁷ See *2006 California State Bar Report*, p. 35. These survey results, while arising from a small sample of transgender attorney respondents, are consistent with broader employment surveys of non-attorney transgender respondents, in which the results have demonstrated that transgender people are generally underemployed at disproportionately high rates and suffer alarming rates of workplace discrimination. See *Good Jobs Now!*, Transgender Law Center (2006), pp. 2-5 <<http://transgenderlawcenter.org/pdf/Good%20Jobs%20NOW%20report.pdf>>; see also *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination*, Williams Institute/UCLA School of Law (2007), pp. 7-8 <<http://www.law.ucla.edu/williamsinstitute/publications/Bias%20in%20the%20Workplace.pdf>>. The lack of broad data regarding transgender lawyers indicates that more study is needed and that best practices guidance for transgender lawyers is cutting edge.

⁸ See *2006 California State Bar Report*, p. 34.

⁹ A survey of California court employees by the Judicial Council of California reflected that only 36.1 percent of LGBT employees are "totally out" at work, 37.7 percent are "selectively out," and 26 percent are not "out" at all. See *Sexual Orientation Fairness in the California Courts*, Judicial Council of California (2001), App. A, p. 44 <<http://www.courtinfo.ca.gov/programs/access/documents/report.pdf>>. A 1999 study of the District of Columbia Bar similarly reported that less than 40 percent of lesbian and gay lawyers surveyed believed that other lawyers in their firms were aware of their sexual orientation, and over 50 percent reported it would be detrimental to their careers to be "out" to their supervisors. See *Sexual Orientation Task Force Report*, District of Columbia Bar (1999), "Workplace Issues," § C.1 <http://www.dcb.org/inside_the_bar/structure/reports/task_force/index.cfm>. For the

including being thereafter marginalized as the “gay associate.” Whatever the reasons for LGBT attorneys’ reticence to report discrimination, the *2006 California State Bar Report* confirms that legal employers are not getting the feedback they need to understand that problems persist for LGBT lawyers, much less how to address those problems.¹⁰ There is ample room to assure fairer treatment of LGBT attorneys in the workplace.

This Report is BASF’s attempt to help law firms and corporate legal departments address LGBT issues, as they are perceived to exist as of the date of this Report. It is specifically directed to institutions that want to assess and enhance their own treatment of LGBT attorneys, but that may lack some of the information they need to take these steps. The Best Practices discussed in this Report cover a variety of areas:

- Involving senior leadership in creating a culture that is inclusive of LGBT lawyers;
- Ensuring that employee benefits are provided to LGBT lawyers and their families on the same terms as heterosexual lawyers;
- Taking affirmative steps to ensure the professional development of LGBT lawyers;
- Instituting diversity or equal employment opportunity (“EEO”) training designed to cultivate cultural competency inclusive of LGBT issues;
- Involving LGBT lawyers in recruiting and hiring activities and affirmatively recruiting LGBT law students and lawyers;
- Sponsoring LGBT-related MCLE, events, bar organizations, *pro bono* opportunities, and causes;
- Publicizing the employer’s commitment to LGBT philanthropic or *pro bono* causes; and
- Implementing policies and training to ensure that the employer addresses issues of gender identity and gender expression.

purposes of this Report, the term “out” refers to the public self-identification by an LGBT person as LGBT, while “closeted” refers to the decision by an LGBT person not to self-identify as such.

¹⁰ In addition, expectations of unfair treatment are still high among LGBT law students. According to a 2005 survey of LGBT and ethnic minority law students at Columbia, Fordham, Harvard, New York University, Santa Clara University, Stanford, University of California, Berkeley (“Boalt Hall”), University of California (“Hastings”), University of California, Los Angeles (“UCLA”), and University of Michigan, 59 percent of LGBT law students believe that being “out” (*see* footnote 9, *supra*) will have “a negative impact on their ability to make partner at a law firm,” 33 percent indicate they would have “significant concerns bringing their partner/spouse/significant other to a law firm event,” and 65 percent indicate they would have “significant concerns bringing their partner/spouse/significant other to a client event.” *Study of Minority Student Attitudes Public Opinion Survey 2005*, Thelen Reid & Priest [now Thelen Reid Brown Raysman & Steiner LLP] (2005), pp. 1, 10 <<http://www.nlgla.org/documents/ThelenStudy.pdf>>.

Today and for the foreseeable future, the talent pool from which legal employers draw will scrutinize the personnel practices of law firms and corporate law departments for fairness and inclusiveness. A similar trend exists among clients, who more and more consider the demographics, culture, and policies of their outside counsel when selecting representation. How well a legal office treats its LGBT attorneys increasingly matters to a broad spectrum of potential stakeholders — not just to LGBT attorneys. To these people, a firm’s stand on LGBT issues in the workplace is emblematic of the institution’s overall fairness, inclusiveness, and flexibility.¹¹

BASF invites you to use this report to assess the current performance of your organization on these issues, and to upgrade that performance if you find it falls short of what you want it to be. The recommendations listed herein are designed to help legal employers maximize their competitiveness and enhance their internal culture, while also promoting genuine equality and fairness for LGBT lawyers. In short, to promote success by doing the right thing.

II. METHODOLOGY

The Subcommittee that prepared this Report included a broad cross-section of the LGBT legal community as well as heterosexual lawyers. The selection criteria for Subcommittee membership included prior involvement in LGBT organizations and bar associations; diversity of law practice experience; race, gender, sexual orientation, and gender identity diversity; expertise in law firm recruiting, mentoring, and promotions activities; and prior experience in best practices development. The Subcommittee included representatives from large and small law firms, corporate law departments, solo practice, public interest organizations, government offices, and academia. It reflected a diverse balance of perspectives, life experiences, and community involvement.

In preparing this Report, the Subcommittee considered a variety of information sources, including (1) previous reports of BASF, Bay Area Lawyers for Individual Freedom (“BALIF”),¹² the State Bar of California, the Minority Corporate Counsel Association (“MCCA”), the National Association for Law Placement (“NALP”), and myriad state and local bar associations;¹³ (2) workplace equality information developed by LGBT advocacy groups, such as the National Center for Lesbian Rights (“NCLR”), Transgender Law Center (“TLC”), the Human Rights Campaign (“HRC”), and Out and Equal Workplace Advocates; (3) informal surveying of existing best practices in Bay Area law firms and legal departments; and (4) discussions with expert consultants, both internal and external to the Subcommittee. At the request of the Subcommittee, several LGBT advocacy organizations and several partners at major Bay Area law firms provided comments on drafts of the Report. The results are the best practices set forth below.

¹¹ See, e.g., E. J. Graff, Alea Jasmine Mitchell, and Scott Mitchell, *Perspectives from the Invisible Bar: Gays and Lesbians in the Profession*, Minority Corporate Counsel Association (2003), p. 12 (hereinafter *Perspectives from the Invisible Bar*). <<http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=612>>.

¹² BALIF is the LGBT bar association of the San Francisco Bay Area.

¹³ See, e.g., *Queer Studies*, 8 UCLA Women’s L.J. 343 (1998) (describing previous reports of the Association of the Bar of the City of New York (one in 1993 and two in 1996); the Hennepin County [Minnesota] Bar Association (one in 1995); the King County [Washington] Bar Association (one in 1995); the Los Angeles County Bar Association (one in 1995); and the Massachusetts Lesbian and Gay Bar Association (one in 1994)), available in Westlaw.

III. BEST PRACTICES

A. Leadership and Culture

Whether you know it or not, your organization probably includes LGBT professionals. It is critically important that the leaders of your institution acknowledge in plain English that you welcome LGBT employees in your workforce, and that your institution values them. The simple gesture of communicating expressly that the contributions of LGBT employees are valued on the same basis as the contributions of others can do wonders for the productivity and morale of LGBT attorneys and enhance the likelihood that your LGBT attorneys will realize their potential. It also sends a strong positive message of inclusiveness and flexibility to employees generally, some of whom may have friends or family members who are LGBT or otherwise may be concerned with the fair treatment of LGBT people at work.

Conversely, when office leadership is silent on LGBT issues, it sends a message that the firm and its managers are uncomfortable with LGBT employees, and may even be hostile to them. Silence on LGBT issues can signal that LGBT employees should stay “closeted”¹⁴ or work elsewhere. LGBT employees should not be left to wonder whether it is safe for them to acknowledge that they have a same-sex partner, the status of their current or previous gender identity (if they are transgender), or that their family time outside of work involves events or relationships that could reveal they are LGBT.

To establish and nurture a culture that allows LGBT professionals to maximize their potential contribution at the office, the Subcommittee recommends the following:

1. Communicate that LGBT lawyers are welcome through senior management’s use of appropriate words and action.

Senior management should periodically and explicitly communicate the employer’s commitment to creating a welcoming and accepting culture for people of diverse backgrounds, including LGBT attorneys. Then, if incidents calling that commitment into question occur in the workplace, senior management should lend their support to efforts to ensure that LGBT lawyers are treated fairly.

Senior management should appoint LGBT attorneys to visible positions where possible. Not all firms or law departments have LGBT attorneys who qualify by experience and talent for management positions. But when there is such a candidate, management should include that person on an important committee or appoint the person to a visible management role. Doing so sends a powerful signal that LGBT lawyers are welcome as members of the team and can aspire realistically to the highest positions in the organization.

2. Incorporate LGBT issues within your support of “diversity.”

Include LGBT people within your internal definition of “diversity,” and address LGBT issues when you address the issues of other groups as part of your efforts to promote diversity. If you have a diversity committee, strive to include at least one LGBT attorney on the

¹⁴ See footnote 9, *supra*.

committee. The benefits of including LGBT issues within your diversity efforts parallel the benefits of expressly acknowledging the contributions of LGBT people at your firm. Failing to include LGBT people within your definition of "diversity" may suggest that LGBT people are not welcome at your office.

3. Use a marriage-neutral term when telling employees that they may bring a guest to an office function.

An LGBT attorney who is in a committed relationship appreciates having his or her employer show respect for that relationship. When the law office issues an invitation to a business function to employees and their "spouses" without also including non-marriage specific terminology, the company fails to signal that respect. Outside of Massachusetts,¹⁵ "spouse" means opposite-sex husband or wife. Using the term in invitations suggests to LGBT employees that they are invisible to the employer, or that the employer does not respect their relationships. They may be uncomfortable bringing their domestic partner or significant other to an event when they are not sure whether the partner is invited.

It is easy to avoid this pitfall, by always using inclusive language when inviting employees to bring a guest to employer functions. "Partner," "domestic partner," "significant other," or "guest" are all acceptable alternatives to "spouse." This small change in wording can have a big impact on firm culture.

4. Sponsor events such as MCLE seminars or brown bag lunches that have an LGBT focus.

Employers that sponsor events such as MCLE seminars or brown bag lunches should occasionally include an MCLE event with an LGBT focus. It is easily done by partnering with a local LGBT bar association or legal organization. The firm should consider opening these MCLE events to both attorneys and staff, even though only attorneys will likely be interested in receiving MCLE credit for the seminar. Such events present an opportunity for both attorneys and staff to meet with other individuals who share a common interest in LGBT issues.

In the case of small firms, events done in partnership with local LGBT bar associations or organizations are particularly valuable, since they can provide low or no-cost MCLE for small firm lawyers.

5. Support community events that have an LGBT focus.

Most large firms and many corporations sponsor "tables" at a wide variety of community events, such as lunches and dinners that benefit *pro bono* legal or charitable causes. Employers should ensure that events with an LGBT focus receive their fair share of these sponsorships. Employers should also make an effort to publicize the firm's sponsorship of LGBT events, both externally and internally. Where the employer lends its public spaces or conference rooms for meetings or parties of community organizations, it should ensure that LGBT community organizations also receive access to these firm resources.

¹⁵Massachusetts is the only U.S. state in which marriage between people of the same sex is legal as of the date of this report.

In the case of small firms, the financial impact of hosting in-house events or buying tables at outside events may be prohibitive. In such circumstances, the firm should explore the possibility of simply subsidizing the cost of seats at such events up to a set amount. Regardless, even a small firm can be inclusive in the places its attorneys select for after-work socializing, and on occasion pick locations popular with LGBT patrons.

6. Periodically include items of interest to LGBT employees in company/firm internal communications.

Legal employers today use a wide variety of methods to communicate with their employees, such as intranet postings, email distribution lists, and office bulletins (electronic and paper). These communications should periodically include items of interest to LGBT employees, particularly if the employer covers similar items of interest to other cultural and social groups.

If the employer's communications are limited to work-related issues, such as employee benefits or office policies, these communications should include items of interest to LGBT employees.

7. Pay membership dues/fees in LGBT bar associations or other legal organizations on a non-discriminatory basis.

If the employer pays for membership in any minority bar groups or associations, then the employer should pay for membership in local or national LGBT professional associations¹⁶ on the same basis. It should also offer this benefit to staff if the firm provides memberships in similar organizations to staff.

Paying for these memberships indicates that LGBT lawyers are a respected part of the organization's culture and that their professional development is important to the employer. Monetary support for these organizations often translates into valuable publicity for the firm. And LGBT bar associations and legal organizations offer employees the opportunity to network with other LGBT individuals and meet potential clients who themselves may favor connections with firms that are supportive of LGBT organizations.

In the case of small firms, where the financial impact of paying for memberships may be of concern, the firm should explore the possibility of subsidizing such fees up to a set amount. In some cases, the membership organization may offer discounted fees to employees of smaller firms.

8. Support affinity groups related to LGBT issues.

Legal employers that offer the use of company resources in support of employee affinity groups should allow employees to form one or more affinity groups related to LGBT issues and

¹⁶For example, this would include the National Lesbian & Gay Law Association ("NLGLA"); the Bay Area Lawyers for Individual Freedom ("BALIF"), San Francisco's LGBT bar association; the Lesbian & Gay Law Association of Greater New York ("LeGAL"); or the Lesbian and Gay Bar Association of Chicago, among many others. Contact information for other LGBT bar associations may be found at <http://www.nalp.org/content/index.php?pid=199#prof>.

use the organization’s resources on the same basis as other affinity groups. The importance of affinity groups to LGBT employees may surprise some firm managers, who may feel that LGBT affinity groups are unnecessary if the employer is otherwise promoting an inclusive and accepting culture. But even at firms with open cultures, not all LGBT employees may be fully “out.”¹⁷ Accordingly, it may be difficult for them to find each other. An LGBT affinity group allows both LGBT employees—and non-LGBT employees who have an interest in LGBT issues—to find each other and network.

Some employers have clear guidelines governing the organization and maintenance of affinity groups and e-mail lists. Others treat the issue more casually, allowing affinity groups to grow up *ad hoc* and use resources on a case-by-case basis, or on request. Whatever the organization’s approach to affinity groups, it should be applied uniformly to all affinity groups regardless of their constituency. The employer should take care to see that LGBT affinity groups are aware that they have the same access to company resources, such as office supplies and office space for meetings, that non-LGBT affinity groups have.

For small firms, forming and supporting affinity groups may be unrealistic. In such cases, it is even more critical that the employer proactively support an inclusive culture in other ways.

Where an employer has decided not to dedicate firm resources to affinity groups, the firm should have a clear policy in this regard, applicable to all groups.

9. Provide support to transgender attorneys undergoing gender transition.

The process of gender transition¹⁸ is often an emotional and vulnerable time for transgender individuals. In addition to undergoing major life adjustments and even physical transformations, a transgender individual faces considerable social hurdles in nearly every aspect of daily life. The Subcommittee thus recommends that employers manage lawyers undergoing gender transition with compassion and provide support to enable them to continue performing the essential functions of the job through this period.

B. Benefits

Many of the “best practices” in leadership and culture concern intangibles. But in the realm of benefits, the best practices are both tangible and critical to LGBT employees. An employer’s benefits package (*e.g.*, medical, retiree medical, dental, vision, life insurance) affects life-and-death matters for all employees, including LGBT employees, and has serious financial consequences for them, their partners, and other family members.

¹⁷ See footnote 9, *supra*.

¹⁸ Many transgender people seek to live permanently as a member of the gender with which they identify, often with medical assistance in the form of hormones and/or sex reassignment surgery. The process of switching from one gender presentation to another is often referred to as “transition,” and may take several years. See *Transgender Equality: A Handbook for Activists and Policymakers*, National Center for Lesbian Rights and the Policy Institute of the National Gay and Lesbian Task Force (2000) (hereinafter “*Transgender Equality*”), p. 3 <http://thetaskforce.org/reports_and_research/trans_equality>.

For these reasons, an employer's commitment to providing LGBT employees with benefits equal to those it provides its non-LGBT employees is the single most important and objective litmus test of the organization's commitment to inclusiveness and fairness toward LGBT people.

Unfortunately for LGBT employees, state and federal law currently fall far short of guaranteeing them equal treatment in benefits.¹⁹ On the other hand, insurance professionals and benefits managers for more enlightened employers have managed to stitch together benefits packages that come close to duplicating what is available to non-LGBT employees and their families.

Today, coverage for LGBT employees' domestic partners and their families should be a standard facet of every employer's benefits plan. In addition, employers in California that fund their welfare benefit plans by purchasing insurance or HMO or PPO coverage should ensure that their plans comply with California's Insurance Equity Act ("IEA").²⁰

To implement the principles of equal treatment and fairness stated above, the Subcommittee makes the following specific recommendations for benefits:

1. Provide benefits continuation coverage ("COBRA") to same-sex domestic partners and dependents of domestic partners on the same terms provided to opposite-sex spouses and their dependents.

The Consolidated Omnibus Budget Reconciliation Act of 1996 ("COBRA") provides certain former employees, retirees, spouses, and dependent children the right to temporary continuation of health coverage at group rates when coverage would otherwise end due to termination of employment, reduction in hours, death, divorce, and other "life events." COBRA, however, does not require that health plans offer continuation coverage to domestic partners of LGBT employees or dependents of domestic partners because domestic partners and their children are excluded from the legal definition of "qualified beneficiary" contained in the Employment Retirement Income Security Act of 1974 ("ERISA"), the federal statute governing welfare benefit plans. However, nothing in COBRA *prohibits* employers from offering COBRA coverage to domestic partners or the dependents of domestic partners. Therefore, many private

¹⁹The Employment Non-Discrimination Act (ENDA), introduced in the 110th Congress on April 24, 2007, is a proposed federal law that would prohibit discrimination against employees on the basis of sexual orientation or gender identity. *See* H.R. No. 2015, 110th Cong., 1st Sess. (2007). However, the current version of ENDA passed by the U.S. House of Representatives on November 8, 2007, does not require employers to provide welfare benefits to the same-sex partners of LGBT employees and omits protections based on gender identity or expression. *Id.* The bill is not expected to become law in the immediate future, as President George W. Bush has vowed to veto the bill if the U.S. Senate also passes it.

²⁰ Some states, such as California, have attempted to address the issue of welfare benefits for domestic partners. For example, California's Insurance Equity Act requires that insurance policies and health care service plan contracts issued in the state provide coverage for registered domestic partners that is equal to any coverage provided by spouses. *See* Assem. Bill No. 2208 (2003-2004 Reg. Sess.), codified at Cal. Health & Safety Code § 1374.58; Cal. Ins. Code §§ 381.5, 10121.7. Additionally, some cities have equal benefits ordinances which require contractors with a state or local government to offer equal benefits to their employees. *See, e.g.,* San Francisco Admin. Code § 12B.1(b); Los Angeles Admin. Code § 10.8.2.1; Oakland Mun. Code § 2.32.040.

employers include domestic partners and their dependents in the continuation coverage provisions of their health and other welfare benefit plans.

Given the importance of continued group health coverage following the termination of employment, including for unexpected events such as involuntary terminations or layoffs, it is critical that employers treat LGBT employees equally with other employees by offering continuation coverage on the same terms provided to opposite-sex spouses and their dependents.

2. Subscribe to insurance carriers that cover transition-related care for transgender employees.

Many transgender employees incur substantial financial costs for necessary transition-related care,²¹ and even for basic care that is excluded on the basis of transgender status. Most insurance companies do not cover transition-related costs. Employers should subscribe to insurance carriers that cover transition-related care for transgender employees, or seek to remove exclusionary language from existing insurance contracts. Such coverage exclusions are often vague and may effectively bar transgender employees from obtaining even basic health care unrelated to transition.

Employers who subscribe to transgender-inclusive insurance carriers not only broadcast a message of fairness to current and potential transgender employees; they also ensure that the potential and productivity of these employees will not be stymied by having to manage complicated health care coverage issues.

3. Allow adoption assistance for the adoption of same-sex domestic partners' children.

Numerous employers provide adoption assistance for employees who are seeking to create or expand their families through adoption. Many LGBT families rely on adoption to create their families, such as through traditional adoptions of previously unrelated children; adoptions of biological children born through egg/sperm donation, in surrogacy arrangements or the artificial insemination of one domestic partner; and/or adoptions to create a legal relationship with a domestic partner's child (where laws preventing adoption by same-sex couples have compelled one of the partners to adopt as a "single parent"). Expenses from such measures can be burdensome for LGBT families.

If employers provide adoption assistance for employees wishing to adopt the child of their opposite-sex spouses, employers should ensure parity by also providing adoption assistance for employees who adopt a domestic partner's child. Additionally, even employers who act with what appears on its face to be equality (*e.g.*, by excluding assistance for employees who are adopting the children of opposite-sex partners) should consider providing adoption assistance for LGBT employees because such policies are not, in fact, equal in their impact. For example, due to discriminatory adoption laws and programs, LGBT couples frequently must hide the fact of their relationships and one of the partners must adopt as a "single parent" in order for the adoption to be permitted. Thus, many LGBT adoptive parents adopt their children after the

²¹ See footnote 18, *supra*.

children have first been adopted by their domestic partners. Employers who thus exclude such adoptions from adoption assistance benefits merely because the employee was not the first adoptive parent reinforce the unfairness implicit in adoption laws that prevent same-sex couples from adopting as couples in the first place.

4. Provide family leave to care for a same-sex domestic partner or the child of a same-sex domestic partner on the same terms provided to care for an opposite-sex spouse or the child of an opposite-sex spouse.

The Family and Medical Leave Act of 1993 (“FMLA”) was enacted to provide up to 12 weeks of unpaid leave to eligible employees to care for themselves or their family members for health reasons and for certain life events. However, Congress did not include domestic partners or children of domestic partners in the definition of a covered family member under the FMLA. Consequently, LGBT employees are not entitled to FMLA leave to care for their same-sex domestic partners or the children of their same-sex domestic partners (unless legally adopted by the employee) during times of illness or for other qualified life events. Consequently, many private employers have elected to step in to fill this glaring gap in protection by providing medical and family leave to employees to care for domestic partners and their children on the same terms as for employees with opposite-sex spouses. This provision should be included in every employer’s leave policy.

The California Family Rights Act (“CFRA”) imposes additional rules on employers that do business in California and employ 50 or more part-time or full-time employees in any state. CFRA requires such employers to provide up to 12 work weeks of leave in a 12-month period for the birth or adoption of a child, or for the serious health condition of the employee’s child, parent, spouse, or registered domestic partner. *See* Cal. Gov’t. Code §§ 12945.1-12945.2. Employers subject to CFRA should ensure that their leave policies comply with its requirements with respect to registered domestic partners.

5. “Gross up” employee pay in the amount of the tax on imputed income from same-sex domestic partner medical benefits or other benefits.

More employers are making the laudable choice to provide welfare benefits (*e.g.* medical, dental, and vision insurance) to the domestic partners of employees who elect such coverage for their family members, or to purchase insurance coverage governed by the California IEA. Under Internal Revenue Code section 152, however, same-sex domestic partners and the children of same-sex domestic partners will not qualify for eligibility as an employee’s “dependents.” Accordingly, the full cost of the employer’s contribution to the cost of benefits provided to the employee for his or her same-sex domestic partner and the partner’s children will be imputed as income to the employee. Because imputed income is added to the “wages” section of an employee’s W-2 form, the employee will be assessed additional federal taxes, Social Security taxes and Medicare taxes on the amount of those benefits.²²

²² Pending before Congress this year is the Domestic Partner Health Benefits Equity Act, which would end the taxability of domestic partner health insurance benefits and treat these benefits the same as health insurance benefits for opposite-sex spouses and legal dependents. *See* Sen. Bill No. 1556, 110th Cong., 1st Sess. (2007).

Absent congressional action, this inequity will continue. Private employers can and should correct this disparity by “grossing up” the compensation for LGBT employees who elect coverage for their dependents in an amount to offset the additional federal taxes. In this way, an employer can place the compensation and benefits of LGBT employees on equal footing with heterosexual employees who have federally-qualified dependents.

6. Extend bereavement leave and survivor benefits for same-sex domestic partners and their family members on the same terms as for surviving opposite-sex spouses and their family members.

Notwithstanding the current absence of a legal mandate to do so, many private employers include an employee’s domestic partner (or the relatives of an employee’s domestic partner) within the categories of persons for whom paid bereavement or funeral leave, if made available to other employees, may be used. Additionally, many private employers include same-sex domestic partners within the definition of spouse, widow, and widower, or separately provide for survivor benefits for domestic partners, so that same-sex domestic partners are eligible for survivor benefits under the employer’s pension plan on the same terms as provided to surviving opposite-sex spouses. Such provision should be a standard facet of every employer’s policy.

7. Provide relocation assistance for same-sex domestic partner or dependents on the same basis as for employees with opposite-sex spouses.

Providing relocation assistance for the domestic partners of LGBT employees transferring to other locations is imperative in order to recognize the reality of LGBT employees’ families and ensure parity in compensation and benefits. Where relocation assistance is offered to married employees and dependents, such relocation assistance should also be offered to same-sex domestic partners and dependents.

8. Ensure that employee benefits plans do not require same-sex domestic partners to establish a higher level of formality of the relationship than is required of opposite-sex married couples.

Employers who make the laudable choice to extend benefits to same-sex domestic partners frequently face a dilemma as to how to define the term “domestic partners” to accomplish the employer’s goals in extending benefits. “Domestic partners” may refer to persons who have registered as such with a government entity, or who meet other criteria established by the employer, such as attesting to factors such as financial interdependence or common residence. In states where there is a recognized statewide domestic partner registry, employers may choose to recognize only “registered domestic partners” under the state’s registration scheme.²³ Additionally, employers may recognize domestic partners who have registered with a municipality or, alternatively, recognize domestic partners who identify themselves according to other criteria. To ensure that LGBT employees and their domestic partners receive the benefit of consistent and predictable plan administration, employers should ensure that their plans clearly define who is a domestic partner.

²³In California, this is set forth in the Domestic Partner Rights and Responsibilities Act. See Cal. Family Code § 297.5.

Furthermore, as a best practice, employers should consider offering alternatives, such as making domestic partners eligible for benefits if they are registered with the state or, if the locality of the employer does not have a statewide registry, simply if they file an affidavit of domestic partnership with the benefits plan.

An inclusive definition of “domestic partner” that allows committed same-sex partners who can not legally marry or register to participate in plan benefits can help to address other inequalities unique to LGBT employees. For example, domestic partner registration may raise issues for non-citizen employees or non-citizen domestic partners of employees that marriage does not present for opposite-sex partners.

From an LGBT-equality perspective, the key is that the employer’s plans provide parity in coverage for committed relationships and that they not require a higher level of formality of the relationship for same-sex partner coverage than for opposite-sex partner coverage, including spousal coverage. For example, if an employer’s plan provides coverage to married opposite-sex partners, it should allow coverage to committed same-sex partners. Similarly, if it allows such coverage for opposite-sex couples who are unmarried, it should not require that same-sex couples be registered with the state. Nor should an employer’s plan require a higher level of proof of domestic partnership than it does of marriage. For example, if a plan requires that same-sex domestic partners present evidence of state registration, it should require that married spouses present evidence of marriage. Plans should also clearly state how dissolution of a same-sex domestic partnership is established, providing requirements parallel to those for divorce or opposite-sex partnership dissolution. To ensure consistent administration, these requirements should be stated in the plan documents.

9. Human resources and benefits employees should receive training on benefits eligibility requirements for same-sex domestic partners.

LGBT employees often face confusion on the part of human resources and benefits employees attempting to administer benefits plans providing benefits to same-sex domestic partners. For example, HR and benefits employees sometimes impose burdensome or inconsistent requirements for enrolling or un-enrolling a domestic partner. Once an employer has ensured that its plans contain a clear definition of “domestic partner” and nondiscriminatory requirements for establishing the existence of a domestic partnership, it should ensure that its employees involved in plan administration understand these requirements and procedures and can explain them clearly to employees.

10. Provide the option for employees to designate themselves and their beneficiaries as “domestic partner” or “registered domestic partner,” as appropriate, on benefit plan census, enrollment, and beneficiary designation forms.

Benefits plan administration frequently requires that employees complete census, enrollment, or beneficiary designation forms. LGBT employees often find that these forms require them to identify themselves as either “married” or “single” for plan purposes, or provide space to identify a spouse but not to identify a domestic partner. Where benefits plans provide for domestic partner eligibility, the employer should ensure that plan paperwork includes an

option to identify a domestic partner as defined by the plan. Doing so fosters both an atmosphere of inclusiveness and more accurate and consistent plan administration.

C. Professional Development

Even the most talented, energetic, and “self-starting” new attorneys require a hospitable professional development environment to maximize their potential for success. Elements of such an environment include mentoring in law practice skills; introductions to clients; inclusion in formal and informal networks; affirming messages that the new attorney is being accepted as part of the employer’s “family” or “tribe;” respectful acknowledgment of the attorney’s personal relationships outside the office; and coaching regarding “firm politics.”

LGBT attorneys are no less in need of a hospitable environment to maximize their potential than their non-LGBT colleagues. But an employer that does not expressly consider the professional development of LGBT attorneys is at serious risk of denying them the same foundation for success that non-LGBT attorneys receive under the *status quo*. This is because it is far too easy for both supervisors and professional peers to overlook and inadvertently avoid LGBT attorneys, with the result that LGBT attorneys may be excluded from the professional development opportunities they deserve.

In the early stages of their careers, junior attorneys are generally exceedingly sensitive to the affirmation (or lack thereof) — express or implied, blunt or subtle — that management and their professional colleagues provide. Even well-intentioned managers and co-workers can allow their occasional awkwardness around LGBT attorneys, or a misplaced concern about invading an LGBT attorney’s privacy with questions about family, to cause them to keep their distance from LGBT attorneys. This failure to engage LGBT attorneys in normal discourse and mentoring can feel to the junior LGBT attorney like exclusion or receiving a bad grade. The exclusion is demoralizing and stifling for the LGBT attorney’s professional development. It places the organization at risk of squandering the talents of LGBT attorneys and undercuts the organization’s ability to succeed.

But employers can ameliorate this risk in a number of ways:

1. Assure that each junior LGBT attorney has at least one mentor.

If there are experienced LGBT attorneys in the organization, they should be accessible as mentors and look for opportunities to mentor LGBT attorneys. (They should also be recognized by the organization for this contribution, especially if they are among only a few LGBT mentors called on by associates to fill a perceived gap in LGBT leadership in the institution.) Such mentors should also try to lead LGBT attorneys to skilled and influential non-LGBT attorneys who show a willingness to mentor LGBT attorneys.

Management should allow natural alliances to form, but should also check to see that each LGBT attorney has at least one mentor, and assign a mentor after the LGBT attorney has been working with the organization for three months if the junior LGBT attorney does not have one by that time. Moreover, it is particularly important that each junior LGBT attorney have at least one mentor who is steeped in the company culture and can run interference for the LGBT

attorney as he or she makes the inevitable occasional misstep in working successfully within the culture.

2. Create networking opportunities for LGBT attorneys.

If the employer allows use of company resources for networking or affinity groups, there should be a sign-up opportunity for attorneys to self-identify as LGBT and be added to an official, employer-sponsored and employer-maintained group roster or mailing list that can be used to keep LGBT attorneys informed of issues in or affecting the organization that also affect the LGBT community.

Regardless of whether there is an official LGBT group, a more senior and openly (“out”) LGBT attorney should maintain an informal roster or mailing list. The list can be kept confidential if it includes LGBT attorneys who have not publicly identified themselves as LGBT.

Both lists can be used to keep people informed and to build support for various employer activities and involvements, such as sponsoring tables at key dinners and lunches held by LGBT organizations and bar associations.

3. Senior management should refer positively to LGBT attorneys and issues in employer communications and at firm social events.

Affirmatively mentioning LGBT attorneys in internal communications helps foster LGBT attorneys’ professional development by: (1) enhancing their opportunities for being mentored by partners who take an interest in their careers; (2) enhancing their reputation as well as their self-esteem and self-confidence; and (3) increasing the confidence that colleagues have in them.

Affirmatively mentioning LGBT attorneys in outward-directed communications such as website communications and client newsletters can help publicize the employer’s position of inclusiveness to clients and other employer constituencies, such as employer alumni. This likewise fosters the professional development of LGBT attorneys by enhancing their reputation with outside audiences, bolstering their self-confidence, and facilitating their sense of belonging in the workplace.

If an attorney has self-identified as LGBT and has a domestic partner and/or children, senior management should make the same type of polite small talk (and ask the same types of non-intrusive questions) about the LGBT person’s family that senior management would make about a non-LGBT person’s family.

4. Broadcast employer support for LGBT attorneys at offices outside San Francisco.

If an employer has offices in multiple cities, it should ensure that best practices on LGBT professional development are followed in all offices. This may be especially critical for LGBT attorneys in locales where the prevailing local culture in the business community and outside the office may be less supportive of LGBT attorneys than in the San Francisco Bay Area. It is also important for collegial relations within the organization, so that the employer’s LGBT attorneys

can work smoothly with the employer's non-LGBT attorneys, regardless of office location. This also ensures that policies and practices are implemented uniformly across locations.

D. Training

In the above discussion of Leadership and Culture, the Subcommittee suggested ways in which top managers of firms and corporate law departments can foster inclusiveness and fairness toward LGBT employees. Even if managers do this, training can help ensure that all employees understand the issues and apply these values to their own behavior. Training also helps avoid conduct and incidents that are out of step with the culture that top management hopes to foster.

The Subcommittee believes that the most successful training methods are those that include the "business case" for the structural or cultural point that the training is intended to establish or reinforce. The least successful training methods are mandatory "sensitivity training" courses that do not explain the organizational imperatives for conduct or exceed what is needed for workplace decency, harmony, and fairness. These can result in backlash.

The Subcommittee recommends that segments of training devoted to LGBT issues have a matter-of-fact tone. The training should cite the fact that the modern American workplace increasingly includes both LGBT people and heterosexuals who have a strong interest in fairness for LGBT people. The training should emphasize that the employer is not the only organization with a workplace inclusive of LGBT people, but that such workplaces also exist among the employer's clients and customers. The training should remind trainees that it is often not easy for them to identify which clients, co-workers, and supervisors may be LGBT people and that they may easily offend colleagues or clients if they do not incorporate inclusive language and behavior into their professional conduct. Employers should consider the following to help ensure an inclusive workplace for LGBT lawyers:

1. Senior management should lend its prestige and support to LGBT training.

Senior management, as part of its effort to foster a culture of inclusiveness and fairness, should explicitly refer to LGBT issues as one cluster of issues on which the employer conducts training.

2. Offer regular training on LGBT Issues.

The employer should include LGBT-specific issues as a part of its orientation and regular training programs. Because people have diverse learning styles, the employer should offer training in a variety of formats, including in-person seminars, online programs, live speakers, and interactive activities. There are many individuals and organizations that have expertise in training organizations in cultural competency inclusive of LGBT issues, and many resources are available online, including the resources listed in Section G and Appendix A of this Report.

3. Use training to make the business case for diversity and highlight the negative impact of discrimination.

LGBT training should address the business and financial benefits of an inclusive, diverse workforce; the legal framework of anti-discrimination protections; and the adverse impact of

discriminatory conduct. It should touch upon the fact that the organization's current clients and customers likely include LGBT people, some in decision-making roles.

4. Provide focused training on LGBT issues to personnel with recruitment, hiring, assignment, and evaluation responsibilities.

Employers should include issues specific to LGBT candidates in their training for hiring committees or on-campus interviewers. All lawyers participating in the interviewing and hiring process should receive cultural competency training to ensure they are able to effectively communicate with LGBT candidates. This includes avoiding gendered terms such as “sir” or “ma’am” if the recruiter is unsure of how the candidate self-identifies, and avoiding non-inclusive language in referencing family relationships or significant others. (For example, instead of saying “we always invite spouses to our firm retreat,” the interviewer could say “we always invite significant others (or partners).”). A tactful way to deal with issues of gender identity is for the employer to create a sign in-sheet for candidates that allows the candidate to specify whether they prefer to be called “Mr.,” “Ms.,” or “Mrs.,” and asks the candidate whether they prefer to be called a nickname instead of their given first name (*e.g.*, “Jim” instead of “James” or “Shane” instead of “Shannon”).

Similarly, employers should train those individuals responsible for making associate assignments or providing associate performance appraisals in order to minimize the risk of cultural stereotyping. Partners in particular should be prepared to handle clients who may express discomfort working with an LGBT lawyer and be sensitive to how such experiences may affect an LGBT lawyer's performance.

5. Provide specific training directed to transgender issues.

Employers should recognize that transgender employees frequently have unique and different experiences than lesbian, gay, or bisexual employees, and should include training specifically addressing transgender issues. It is also important that employers educate their managers on the benefits of recruiting and developing transgender employees, and implement workplace education to ensure equal opportunity for transgender employees already hired. This is particularly important if the employer knows that it has transgender employees, customers, or clients, though employers should not assume they do not merely because no transgender employees, customers, or clients have self-identified themselves to the employer. There are many resources and organizations that have expertise in transgender issues, including many of those listed in Section G of this Report.

E. Recruiting/Hiring

As employers well know, the market for top-quality legal talent is competitive. LGBT law students and lawyers prefer to work in an atmosphere where they know they are welcome, and have a good chance for advancement. Even those law students and lawyers who are not in

the LGBT community increasingly see fairness for LGBT employees as a litmus test of the employer's general commitment to fairness and its concern for morale.²⁴

Good firms are losing good candidates, both LGBT and heterosexual, simply because they do not understand the signals they send (intentionally or otherwise) about LGBT lawyers during the recruiting process. In addition, LGBT lawyers continue to encounter certain long-standing obstacles to getting hired. In particular, LGBT (or those perceived to be LGBT) candidates who do not "conform" to recruiters' gender stereotypes (*e.g.*, "wrong" style of clothing, hair cut, name, tone of voice, or mannerisms) continue to have difficulties getting past the interview phase. Law students or lawyers who are perceived to have "gay" or gender-nonconforming characteristics (*e.g.*, feminine man/masculine woman) are deemed less desirable than their more gender-conforming counterparts.²⁵ This is especially problematic for transgender lawyers who may experience substantially greater difficulty securing employment.²⁶ When LGBT candidates with strong academic records have difficulty getting hired at a specific firm, word of this gets around the law school campus. A firm that fails to adequately prepare its recruiters to fairly consider candidates inclusive of sexual orientation, gender expression or gender identity runs the risk of missing out on great talent, offending heterosexual candidates, and creating a negative reputation among law students that could take years to overcome.

Employers who seek to increase their yield of top-quality talent, inclusive of LGBT candidates, can take several specific steps:

1. Include LGBT lawyers in recruiting activities.

Legal employers can give a clear signal to candidates that they are inclusive organizations if they include openly LGBT lawyers throughout the interviewing and hiring process. Large legal employers should endeavor to include an openly LGBT lawyer on their recruiting/hiring committees. Smaller legal organizations that do not have a formal recruiting/hiring committee should nevertheless attempt to include LGBT lawyers in the recruitment (*e.g.*, interview, vetting and hiring) process. When an employer is actively recruiting an LGBT candidate, it should invite LGBT lawyers to reach out to the candidate to discuss the work environment and the ways in which the employer supports LGBT lawyers. If a small firm or corporate legal department does not have any LGBT lawyers but has made an offer to an LGBT candidate, it may elect to seek assistance from LGBT outside counsel or co-counsel at another firm to serve as a reference for the recruiting employer. The employer may then acknowledge to the candidate that the employer does not yet have any LGBT lawyers and ask the candidate if the candidate would be interested in speaking with LGBT co-counsel from the outside firm to get that LGBT lawyer's impression of the employer.

In addition, LGBT lawyers can be formal or informal mentors for summer associates, law clerks, and new lawyers, particularly at large law firms with formal summer associate programs.

²⁴ "Student Group Grades Firms On Diversity, Pro Bono Work," *The Recorder* (October 19, 2007), <<http://www.law.com/jsp/ca/index.jsp>>.

²⁵ See, *e.g.*, *Perspectives from the Invisible Bar*, p. 10.

²⁶ See *2006 California State Bar Report*, p. 35; *Good Jobs Now!*, Transgender Law Center (2006), pp. 2, 4; *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination*, Williams Institute/UCLA School of Law (2007), pp. 7-8.

Employers should also encourage LGBT lawyers to take an active and visible role in welcoming summer associates, law clerks, and new lawyers to the firm.

2. Offer all applicants the option of meeting an LGBT attorney as part of the interviewing process.

Legal employers frequently provide candidates with an opportunity to meet with lawyers from specific practice areas, or of a specific gender or race. Employers can specifically include an invitation to meet with openly LGBT lawyers for *all* candidates interviewing at the firm. Inclusive environments are increasingly important to all law students and lawyers, and providing opportunities to meet with all of the diverse lawyers within an organization demonstrates an organization's commitment to diversity. In addition, LGBT candidates may be particularly interested in knowing how welcoming the organization is to LGBT lawyers and may otherwise assume from a lack of information that the firm is not genuinely receptive.

3. Identify openly LGBT partners or associates in the organization and use marketing materials targeted to LGBT candidates.

The first impression any employer makes on a candidate often comes from a website or print brochure. Legal employers can appeal to LGBT candidates if they include photos, names, and/or contact information of their openly LGBT lawyers in their recruitment brochures, in targeted diversity marketing materials, and on their websites.

Employers will also make a strong impression about their organizations if they have recruiting materials directed specifically at LGBT candidates. This material can identify the ways in which the organization supports and welcomes LGBT lawyers and the organization's involvement in the LGBT community.

4. Use targeted recruitment to increase the pool of LGBT candidates.

Legal employers can expand their hiring of LGBT lawyers by engaging in targeted recruitment of LGBT law students and lateral candidates. Employers seeking to increase their talent pool of LGBT candidates may send letters to LGBT student groups during the on-campus interview process, inviting their members to apply and offering interviews to members of the group who express interest. Contact information for such groups can be found on the website of the National Association for Law Placement at <http://www.nalp.org/content/index.php?pid=199#student>.

Fostering such relationships also makes it easy for an employer to spread the word about job openings or school-year clerkship opportunities through these organizations. Employers should also consider advertising their open positions in LGBT law student or bar association publications. In addition, there are resources for employers that specifically seek to recruit transgender applicants, including the Transgender Economic Empowerment Initiative (<http://www.sfcenter.org>, or (415) 865-5632) and the Transgender Job Placement Program at the Los Angeles Gay and Lesbian Center (<http://www.lagaycenter.org>, or (323) 860-7366).

When firms purchase tables for the events of LGBT organizations, they can enhance their relationships with LGBT law students by offering seats at the tables to LGBT students who can

then attend and network with firm attorneys. Outreach to LGBT students and lawyers through LGBT bar associations²⁷ is another powerful way for employers to enhance their reputation within the LGBT legal community and cultivate a culture of inclusiveness.

5. Be Explicit About Policies and Benefits Directed to LGBT Lawyers.

Employers can enhance their attractiveness to LGBT applicants by being explicit about their anti-discrimination and equal employment opportunity policies and the fact that they offer insurance, medical, and family benefits (of the type described in Section B) to LGBT employees on the same terms offered to all other employees. Employers that provide insurance coverage for transition-related medical care should indicate this in their recruitment materials.

6. Host receptions or educational events for LGBT law student groups and/or LGBT bar associations, where students and lawyers can meet firm attorneys.

Employers can attract LGBT students and attorneys by co-sponsoring receptions, lunches, or CLE events on-campus or in their offices with LGBT bar associations or legal non-profits. Employers that co-sponsor such events and encourage their attorneys (including senior partners) to attend and network with LGBT students and attorneys demonstrate support for diversity and their interest in recruiting and hiring LGBT candidates. Many LGBT law students have connections to local LGBT bar associations or legal non-profits and an employer's partnership with those organizations can raise the employer's profile and increase the likelihood that LGBT students will apply for open positions. In addition, employers can show their support for LGBT students by participating directly in educational efforts, such as by sending firm attorneys (including openly LGBT attorneys) to speak on law school panels addressing discrimination based on sexual orientation, being "out" at work, or similar topics.

7. Ensure that LGBT recruitment policies are consistently followed at other offices of the employer.

Development of firmwide policies regarding LGBT recruitment can ensure that employer recruitment policies are consistent across offices, and that information and instructions regarding effective and inclusive recruitment practices are shared. In the absence of such a structure, managers across offices should communicate with one another regarding the recruitment of LGBT students and lawyers to ensure candidates are having the same experience at each office. Managers may also share identifying information regarding openly LGBT lawyers in each office so that candidates, if interested, can contact openly LGBT lawyers in other offices of the employer to discuss their perspectives.

8. Participate in LGBT job fairs.

Many law schools host job fairs highlighting diverse pools of potential candidates. Job fairs focusing on LGBT lawyers, such as Lavender Law job fairs, provide employers with

²⁷See footnote 16, *supra*, for a short list of such organizations as well as website contact information for a listing of such organizations nationally.

opportunities to meet substantial numbers of qualified LGBT candidates, as well as demonstrate their commitment to promoting diversity within their organizations.

9. Support programs for LGBT law students.

Employers that provide financial support (or lend employer resources) to support LGBT law student programs demonstrate directly to law students that they care about the issues affecting them. For example, Pride Law Fund sponsors several summer fellowships for law students working on LGBT legal issues at non-profit organizations across the country. It also sponsors the Tom Steel Post-Graduate Fellowship, the only fellowship for a new lawyer working on LGBT legal issues in the United States.

Similarly, employers can demonstrate sensitivity to LGBT law student issues by being aware of and participating in amelioration efforts by law schools attempting to address the effects of the Solomon Amendment. Under the Solomon Amendment, a law school that refuses to allow U.S. military recruiting personnel to recruit on the law school's campus may be barred from receiving federal funding. This means that law schools generally allow military recruiters even though they explicitly discriminate against LGBT applicants. As a means of ameliorating the effects of the Solomon Amendment on law school campuses, the American Association of Law Schools (AALS) has mandated that all member schools take steps to publicize the military's non-compliance with the AALS's non-discrimination policy.

Many law schools also provide educational programming to help students, staff, and faculty address this difficult situation. Employers can assist these efforts by sponsoring law school panels about such topics as being "out" at work, discrimination based on sexual orientation, or the experiences of LGBT soldiers or servicemembers. Employers can also assist law schools in developing strategies for public education or provide legal support for legislative or court challenges to discriminatory policies. Recruiters should also be educated about the Solomon Amendment in the event they encounter students or administrators dealing with this issue when they are visiting campuses during recruiting season.

F. Marketing, Philanthropy and *Pro Bono* Activities

Virtually all law firms and an increasing number of corporate law departments engage in a wide array of philanthropic and *pro bono* activities, consistent with the bar's long and honorable tradition of public service. These institutions publicize their activities to enhance their reputations among the general public, current employees, prospective employees, and clients. Management should support LGBT-related philanthropic and *pro bono* activities in the same manner as other philanthropic or *pro bono* activities, and publicize them on the same basis. LGBT people are not the only ones who will look favorably on these efforts. People with LGBT friends, family members, and mentors will also be favorably impressed, as will many fair-minded people who have no special connection to the LGBT community.

The level of a firm's support for LGBT *pro bono* and philanthropy may vary, depending in large part on the size of the firm, the opportunities that exist in the communities where the firm operates, and the firm's overall level of philanthropic activity. No matter the level of

support, communicating the firm's involvement with and commitment to LGBT *pro bono* and philanthropy is an excellent way to communicate support to the firm's LGBT constituencies.

The Subcommittee is pleased to report that many law firms already support LGBT causes in identifiable ways. This includes buying tables at annual fundraising events,²⁸ taking on *pro bono* matters involving LGBT issues,²⁹ and representing LGBT-identified clients. The Subcommittee also commends firms for giving billable hour credit to attorneys for time spent on these *pro bono* activities.

The Subcommittee urges that firms be less reticent in publicizing the work on LGBT causes that they already perform. This may inspire other firms to do more, and it will have an affirming, morale-building effect on the firms' various constituencies that support LGBT equality.

The following are specific ways in which legal employers can approach both philanthropy and *pro bono* work, with an eye toward cultivating the organization's "brand" and demonstrating support for LGBT equality:

1. Support LGBT community events and fundraisers.

Legal employers should support LGBT-related fundraising events, through buying firm tables or individual tickets, and making these tickets available to all attorneys within an office. These events provide opportunities for non-LGBT employees to interact with their LGBT colleagues and to start conversations about LGBT issues, breaking down barriers and informing non-LGBT employees about issues that matter to LGBT lawyers.

Employers should also communicate support for LGBT "Pride" events by listing them on the yearly calendar of multicultural events. To the extent employers provide financial support for other multicultural community events, it should sponsor LGBT Pride. Sponsorship may include hosting workplace functions or making financial contributions to external LGBT Pride events.

2. Recognize employee volunteer work benefiting LGBT causes through internal newsletters or e-mails.

Legal employers should publicly acknowledge attorneys' volunteer involvement in LGBT-related organizations, including participation on boards, panels, and foundations. Publicizing these efforts helps raise the visibility of LGBT issues, as part of the organization's broader diversity framework.

²⁸Among such events are receptions for myriad groups, including the ACLU Lesbian and Gay Rights Project, the National Center for Lesbian Rights, Lambda Legal Defense and Education Fund, Gay and Lesbian Advocates and Defenders, Transgender Law Center, and the Human Rights Campaign, among many others. See Appendix C.

²⁹Such efforts could include, for example, representing LGBT clients challenging anti-LGBT policies or filing *amicus* briefs in appellate courts in LGBT marriage, family law, or asylum cases.

3. Include LGBT organizations and causes among annual giving, workplace giving, and gift matching programs.

Employers should include LGBT-related organizations and causes among others they support in annual giving campaigns. Employers, whether large or small, that donate repeatedly to LGBT causes communicate an ongoing commitment to inclusiveness that is measurable in real terms over time.

LGBT-related organizations exist at the national, state and local levels. Some are expressly legal organizations and others are not. Some provide direct service to individual clients, while others address broader public policy matters. Some focus on advocacy for individual issues, while others address a wide range of matters of interest and concern to the LGBT community. A non-exhaustive illustrative list is attached at Appendix C.

To the extent legal employers encourage their employees to make individual philanthropic contributions — for example by providing matching funds — it is a best practice for such employers to include LGBT organizations among the beneficiaries employees are encouraged to support. When employers encourage employees to make personal investments in LGBT-specific organizations or causes, they also motivate employees to promote inclusiveness as an individual responsibility.

4. Highlight philanthropic and *pro bono* commitments to LGBT issues in marketing materials and press releases.

Legal employers should feature their philanthropic and *pro bono* commitments to LGBT-related issues in marketing materials and press releases on an equal footing with commitments to other clients, causes and organizations. This sends a message that resonates deeply with members of the LGBT community, including current and prospective LGBT employees and clients, and shows non-LGBT employees the employer's respect for LGBT causes. While individual employers can best decide which marketing methods will be most appropriate, some approaches include:

- Featuring information concerning LGBT *pro bono* work on web pages;
- Identifying LGBT *pro bono* work in recruiting brochures targeted to law students;
- Discussing LGBT *pro bono* opportunities within relevant new-hire materials; and
- Highlighting LGBT *pro bono* work in newsletters and other client communications.

Legal employers should also seek out coverage in both the mainstream and LGBT press for their employees' achievements on LGBT issues. When firms issue press releases (*e.g.*, regarding professional achievements or remarkable lateral hires), they send a message internally and to the larger legal community about what they value.

G. Transgender Lawyers and Awareness of Transgender Issues

Over the past ten years, employers have generally adopted strong policies prohibiting workplace discrimination based on sexual orientation, and many have adopted specific anti-discrimination policies based on sexual orientation for recruiting, compensation, promotion, job assignment and related areas. Policy development has been slower in the areas of gender identity and gender expression. In part, this may be explained by a basic unfamiliarity that many employers have with transgender people and issues.

The Transgender Law & Policy Institute estimates that there are as many as 15 million transgender people in the United States³⁰ A “transgender” person is someone whose gender identity (*e.g.*, their psychological identification as male or female) does not match that person’s anatomical sex at birth (often referred to as “assigned sex” or “assigned gender”).³¹ The term “transsexual” is often used to describe transgender people who seek to live permanently as a member of the gender with which they identify, sometimes with medical assistance.³² “Transgender” people may have any of the four scientifically recognized sexual orientations (heterosexual, homosexual, bisexual, asexual), and many transgender people do identify as heterosexual.³³

The experiences of transgender people are similar to lesbian, gay, and bisexual people in some respects, although transgender individuals have unique medical and social concerns that lesbian, gay, and bisexual people do not share. In addition, transgender people share a very important commonality with lesbians, gay men, and bisexuals in that all are affected by bias arising from the stigmatization they receive for being “gender non-conforming” within the dominant social culture and its constructions of gender. For example, gay men may be stigmatized for partnering with other men – contrary to social custom, which assumes men partner with women – while transgender people may be stigmatized for “rejecting” the gender that social custom presumes them to have.³⁴

The state of California has incorporated protections for transgender people within its existing employment laws.³⁵ Unfortunately, employers’ lack of familiarity with transgender issues may breed discomfort or even hostility to the employment of transgender lawyers.³⁶ In fact, surveys reveal that transgender people face tremendous difficulty obtaining employment

³⁰ See <<http://www.transgenderlaw.org/resources/transfactsheet.pdf>>.

³¹ See *Transgender Equality*, p. 3.

³² See *Transgender Equality*, p. 3.

³³ See *Transgender Equality*, p. 7.

³⁴ See *Perspectives from the Invisible Bar*, p. 10

³⁵ California’s Fair Employment and Housing Act (“FEHA”) explicitly protects transgender people due to the passage of the Gender Nondiscrimination Bill of 2003, Assem. Bill No. 196 (2003-2004 Reg. Sess.). See also *Cases Recognizing Protection for Transgender People Under State Sex Discrimination Provisions*, National Center for Lesbian Rights, (2004) <http://www.nclrights.org/site/DocServer/state_cases091004.pdf?docID=1203>.

³⁶ It is a common misconception that “transgender” means “transvestite.” This is false. “Transvestite” is a dated and generally disfavored term for a person who likes to wear the clothing of the other sex (*e.g.*, a man who occasionally likes to wear women’s clothing). The preferred term for such persons is “cross-dresser.” Cross-dressers do not necessarily identify as the other gender. Most cross-dressers are heterosexual, although they may also be lesbian, gay, or bisexual. See *Transgender Equality*, p. 3-5.

and receiving fair treatment in the workplace.³⁷ These studies suggest that there is much work yet to be done to ensure fair treatment for transgender employees.³⁸

The Subcommittee recommends the following to create an inclusive workplace for transgender employees:

1. Policies

Employers should adopt policies of non-discrimination based on gender identity and gender expression. Employers should also examine their internal culture to ensure that it is free of gendered traditions (*e.g.*, male vs. female contests). One tradition that remains central to most workplaces today is the tradition of gender-specific bathrooms. This creates obvious challenges for transgender employees, particularly if they are in the process of transitioning.³⁹ Employers should create and implement policies guaranteeing that bathrooms are accessible to people based on their gender identity (as opposed to their gender assigned at birth or physical anatomy). Gender-neutral bathrooms are a good idea, if feasible. However, use of a gender-neutral bathroom should be optional for anyone who wishes to use it. Employers should not require that transgender employees use only a designated gender-neutral bathroom or a private, single-stall restroom.

Finally, employers should develop policies around how to appropriately address persons with non-traditional gender expressions, and to respect the privacy of transgender individuals who do not wish to discuss their gender identity. An employee's name and gender status should be changed in the employer's records upon request when an employee is embarking on a medically-supervised gender transition (a court order is not required). Except in instances where a transition does occur in the workplace, it is almost never necessary to disclose a person's transgender status to clients or co-workers, and employers should not do so without that person's permission. Likewise, information about an employee's transition-related⁴⁰ healthcare should remain confidential.

2. Training and education

Training and education of all employees is critical to the fair treatment of transgender employees. Non-transgender employees may need some support or coaching with respect to eliminating unconscious bias toward people whose gender expression varies from what is expected. Employers should understand that it is perfectly acceptable for an employer to acknowledge, "I don't know the right thing to do," and get help from organizations that do.

There is a growing pool of individuals and organizations that provide cultural competency training and workshops on eliminating workplace bias inclusive of transgender issues. These trainings and workshops typically provide detailed information on topics such as:

³⁷ See 2006 California State Bar Report, p. 35; *Good Jobs Now!*, Transgender Law Center (2006), pp. 2, 4-5; *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination*, Williams Institute/UCLA School of Law (2007), pp. 7-8.

³⁸To facilitate fair treatment for transgender attorneys, the Subcommittee urges BASF to continue focusing attention on transgender issues, and similarly to encourage other bar groups to do so as well.

³⁹ See footnote 18, *supra*.

⁴⁰ See footnote 18, *supra*.

how to sensitively and properly discuss transgender issues; how to comply with laws protecting employees from discrimination and harassment based on gender identity and gender expression; how to appropriately manage your work force during an employee's gender transition and beyond; and how to properly and respectfully recruit and retain talented transgender employees. The Subcommittee urges employers to avail themselves of these resources. Individuals and organizations that provide cultural competency training and workshops on eliminating workplace bias inclusive of transgender issues include:

- (1) Transgender Law Center: www.transgenderlawcenter.org
- (2) National Center for Lesbian Rights: www.nclrights.org
- (3) Human Rights Campaign Workplace Project:⁴¹
www.hrc.org/issues/workplace.asp
- (4) San Francisco Human Rights Commission:
www.sfgov.org/site/sfhumanrights_index.asp?id=4581
- (5) Transgender Economic Empowerment Initiative:
www.sfcenter.org/programs/econ_dev/econ_teei.php
- (6) Jamison Green & Associates: www.jamisongreen.com

IV. RECOMMENDATIONS

This Report recommends that the BASF Board of Directors approve the following:

1. Call upon legal employers to review their practices regarding the recruiting and employment of LGBT lawyers and renew their commitment to workplace equality consistent with the principles in this Report.
2. Schedule a 2009 survey of Bay Area legal employers to determine the extent to which they have adopted the recommendations in this Report.
3. Urge legal employers to adopt the following best practices as set forth in Section III of this Report:⁴²

Leadership and Culture

- Communicate that LGBT lawyers are welcome through senior management's use of appropriate words and action.
- Include LGBT issues among company diversity efforts.

⁴¹ See also *Transgender Issues in the Workplace: A Tool for Managers*, Human Rights Campaign <<http://www.hrc.org/issues/transgender/7084.htm>>.

⁴² A checklist for employers to use in assessing their organizations' compliance with these recommendations is attached as Appendix E.

- Include LGBT attorneys on employer diversity committees.
- Use marriage-neutral terms when telling employees they may bring a guest to an office function.
- Sponsor events such as MCLE seminars or brown bag lunches with an LGBT focus.
- Support community events that have an LGBT focus.
- Periodically include items of interest to LGBT employees in company/firm internal communications.
- Pay membership dues/fees in LGBT bar associations or other legal organizations on the same basis as such dues are paid for other minority bar groups.
- Support affinity groups related to LGBT issues.
- Provide support to transgender attorneys undergoing gender transition to enable them to continue performing the essential functions of the job through this period.

Benefits

- Provide benefits (medical, retiree medical, dental, vision, life insurance) to same-sex domestic partners and dependents of domestic partners on the same terms provided to opposite-sex spouses and their dependents.
- Provide benefits continuation coverage (“COBRA”) to same-sex domestic partners and dependents of domestic partners on the same terms provided to opposite-sex spouses and their dependents.
- Subscribe to insurance carriers that cover transition-related care for transgender employees.
- Allow adoption assistance to be used for adoption of a same-sex domestic partner’s child.
- Provide family leave to care for a same-sex domestic partner or the child of a same-sex domestic partner on the same terms provided to care for an opposite-sex spouse or the child of an opposite-sex spouse.
- “Gross up” employee pay in the amount of the tax on imputed income from same-sex domestic partner medical benefits or other benefits.
- Extend bereavement leave upon the death of a same-sex domestic partner or family member of a same-sex domestic partner on the same terms as extended

with the death of an opposite-sex spouse or family member of an opposite-sex spouse.

- Provide pension plan survivor benefits to surviving same-sex domestic partners on the same terms provided to surviving opposite-sex spouses.
- Provide relocation assistance for same-sex domestic partner or dependents on the same basis as for employees with opposite-sex spouses.
- Ensure that employee benefits plans do not require same-sex domestic partners to establish a higher level of formality of the relationship than is required of opposite-sex married couples.
- Assure that human resources and benefits employees receive training on benefits eligibility requirements for same-sex domestic partners.
- Provide the option for employees to designate themselves and their beneficiaries as “domestic partner” or “registered domestic partner,” as appropriate, on benefit plan census, enrollment, and beneficiary designation forms.

Professional Development

- Take affirmative steps to assure that each junior LGBT attorney has at least one mentor.
- Take affirmative steps to create networking opportunities for LGBT attorneys.
- Encourage senior management to refer positively to LGBT attorneys and issues in company/firm communications and at firm social events.
- Broadcast firm support for LGBT attorneys across company/firm offices.

Training

- Lend the support and prestige of senior management to LGBT-related training.
- Offer regular training on LGBT issues.
- Use training to make the business case for diversity and highlight the negative impacts of discrimination.
- Provide focused training on LGBT issues to personnel with recruitment, hiring, assignment, and evaluation responsibilities.
- Provide specific training directed to transgender issues.

Recruiting/Hiring

- Include LGBT lawyers in recruiting activities.
- Offer all applicants the option of meeting an LGBT attorney as part of the interviewing process.
- Use targeted marketing to LGBT candidates and identify openly LGBT partners or associates at the firm.
- Use targeted recruitment to increase the pool of LGBT candidates.
- Be explicit about policies and benefits directed to LGBT lawyers.
- Host receptions or educational events for LGBT law student groups and/or LGBT bar associations, where students and lawyers can meet firm attorneys.
- Ensure that LGBT recruitment policies are consistently followed at other offices of the employer.
- Participate in LGBT job fairs.
- Support programs for LGBT law students.

Marketing, Philanthropy and *Pro Bono* Activities

- Support LGBT community events and fundraisers.
- Recognize employee volunteer work benefiting LGBT causes.
- Include LGBT organizations and causes among annual giving, workplace giving, and gift matching programs.
- Highlight philanthropic and *pro bono* commitments to LGBT issues in marketing materials and press releases.

Transgender Lawyers and Awareness of Transgender Issues

- Maintain policies of non-discrimination based on gender identity or expression.
- Examine workplace customs to ensure that gendered practices are eliminated or ameliorated, including access to gender-neutral bathrooms.
- Educate managers on the benefits of recruiting and developing transgender employees and implementing workplace education to ensure equal opportunity for existing transgender employees.
- Support continued study of the barriers to equal access for transgender lawyers.

APPENDIX A

Online Resources for Employers

1. **How Small Businesses Can Create Fair Workplaces for Gay, Lesbian, Bisexual and Transgender Employees**
http://www.hrc.org/about_us/small-business.asp

A joint publication of the Human Rights Campaign and the National Gay and Lesbian Chamber of Commerce that contains material regarding the business case for equality, equal opportunity policies, benefits, recruiting of LGBT employees.
2. **Frequently Asked Questions About Employee Benefits and Same-Sex Couples**
www.hrc.org/Template.cfm?Section=The_Issues&Template=/ContentManagement/ContentDisplay.cfm&ContentID=31090

A publication of the Human Rights Campaign.
3. **Sample Domestic Partner Benefits Policies, and Sample Non-Discrimination Policies that Include Sexual Orientation and Gender Identity**
http://www.hrc.org/Template.cfm?Section=The_Issues&CONTENTID=5338&TEMPLATE=/ContentManagement/ContentDisplay.cfm

A publication of the Human Rights Campaign.
4. **Advancements in State and Federal Law Regarding Transgender Employees: A Compliance Guide for Employers and Employment Law Attorneys**
<http://ncflr.convio.net/site/DocServer/complianceguideemployers.pdf?docID=1201>

This joint publication of the National Center for Lesbian Rights and Transgender Law Center apprises employers and employment law attorneys of federal and California state developments and provides guidance on steps that can be taken to create a nondiscriminatory environment. It also includes basic information about the transgender community and discusses restroom access, one of the main issues that transgender employees face.
5. **Transgender Issues in the Workplace: A Tool For Managers**
<http://www.hrc.org/issues/transgender/7084.htm>

A publication of the Human Rights Campaign covering basic terminology, how to manage as an employee transitions from one sex to another, and laws and court cases regarding workplace protections based on gender identity. Also lists policy recommendations, educational resources, and consultants specializing in transgender and transsexual issues.
6. **Frequently Asked Questions (about transgender discrimination)**
www.gpac.org/workplace/faq.html

A publication of the Gender Public Advocacy Coalition.

7. **Perspectives from the Invisible Bar: Gays and Lesbians in the Profession**
<http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=612>

A publication of the Minority Corporate Counsel Association that identifies common barriers to making gay and lesbian lawyers feel comfortable and makes recommendations about how attorneys can confront their own biases that may inhibit communication and productivity.

8. **Fifteen Steps to an Out & Equal Workplace**
www.outandequal.org/resources/steps/15steps.asp

This publication of Out & Equal Workplace Advocates includes information about employee resource groups.

9. **Out at Work Tool Kit Chapter 3, Creating an LGBT-Friendly Workplace**
www.lambdalegal.org/take-action/tool-kits/out-at-work/oaw-chapter3.html

A publication of Lambda Legal that includes information about LGBT employee resource groups.

APPENDIX B

List of Employers That Scored 100% on the 2008 Corporate Equality Index of the Human Rights Campaign⁴³

Employer	Headquarters Location
AAA Northern California, Nevada and Utah	San Francisco, CA
Abercrombie & Fitch Co.	New Albany, OH
Accenture Ltd.	New York, NY
Adobe Systems Inc.	San Jose, CA
Aetna Inc.	Hartford, CT
Agilent Technologies Inc.	Santa Clara , CA
Akin, Gump, Strauss, Hauer & Feld LLP	Washington, DC
Alcatel-Lucent	Murray Hill, NJ
Allianz Life Insurance Co. of North America	Minneapolis, MN
Allstate Corp., The	Northbrook, IL
Alston & Bird LLP	Atlanta, GA
American Express Co.	New York, NY
Ameriprise Financial Inc.	Minneapolis, MN
AMR Corp. (American Airlines)	Fort Worth, TX
Anheuser-Busch Companies Inc.	St. Louis, MO
Aon Corp.	Chicago, IL
Apple Inc.	Cupertino, CA
Arnold & Porter LLP	Washington, DC
AT&T Inc.	San Antonio, TX
Bain & Co. Inc.	Boston, MA
Bank of America Corp.	Charlotte, NC
Bausch & Lomb Inc.	Rochester, NY
Bear Stearns Companies Inc., The	New York, NY
Best Buy Co. Inc.	Richfield, MN
Bingham McCutchen	Boston, MA
Boehringer Ingelheim Pharmaceuticals Inc.	Ridgefield, CT
Boeing Co.	Chicago, IL
Borders Group Inc.	Ann Arbor, MI
Boston Consulting Group	Boston, MA
BP America Inc.	Warrenville, IL
Bright Horizons Family Solutions Inc.	Watertown, MA
Brinker International Inc.	Dallas, TX
Bristol-Myers Squibb Co.	New York, NY
Bryan Cave LLP	St. Louis, MO
Capital One Financial Corp.	McLean, VA
Cargill Inc.	Wayzata, MN

⁴³ See <http://www.hrc.org/issues/workplace/ceihome.asp>.

Employer	Headquarters Location
Carlson Companies Inc.	Minnetonka, MN
Charles Schwab Corp., The	San Francisco, CA
Chevron Corp.	San Ramon, CA
ChoicePoint Inc.	Alpharetta, GA
Chrysler LLC	Auburn Hills, MI
Chubb Corp.	Warren, NJ
Cisco Systems Inc.	San Jose, CA
Citigroup Inc.	New York, NY
Clear Channel Communications Inc.	San Antonio, TX
Cleary, Gottlieb, Steen & Hamilton	New York, NY
Clorox Co.	Oakland, CA
CMP Media LLC	Manhasset, NY
CNA Insurance	Chicago, IL
Coca-Cola Co., The	Atlanta, GA
Coors Brewing Co.	Denver, CO
Corning Inc.	Corning, NY
Countrywide Financial Corp.	Calabasas, CA
Credit Suisse	New York, NY
Crowell & Moring LLP	Washington, DC
Cummins Inc.	Columbus, IN
Dell Inc.	Round Rock, TX
Deloitte & Touche USA LLP	New York, NY
Deutsche Bank	New York, NY
Dewey LLP	New York, NY
Dickstein Shapiro LLP	Washington, DC
Dorsey & Whitney LLP	Minneapolis, MN
Dow Chemical Co.	Midland, MI
DuPont (El. du Pont de Nemours)	Wilmington, DE
Eastman Kodak Co.	Rochester, NY
Electronic Arts Inc.	Redwood City, CA
Eli Lilly & Co.	Indianapolis, IN
Ernst & Young LLP	New York, NY
Estee Lauder Companies	New York, NY
Esurance Inc.	San Francisco, CA
Faegre & Benson	Minneapolis, MN
Fannie Mae	Washington, DC
Foley & Lardner	Milwaukee, WI
Foley Hoag LLP	Boston, MA
Ford Motor Co.	Dearborn, MI
Freescale Semiconductor Inc.	Austin, TX
GameStop Corp.	Grapevine, TX
Gap Inc.	San Francisco, CA
Genentech Inc.	South San Francisco, CA

Employer	Headquarters Location
General Mills Inc.	Minneapolis, MN
General Motors Corp.	Detroit, MI
GlaxoSmithKline plc	Philadelphia, PA
Global Hyatt Corp.	Chicago, IL
Goldman Sachs Group Inc., The	New York, NY
Google Inc.	Mountain View, CA
Harrah's Entertainment Inc.	Las Vegas, NV
Hartford Financial Services Co.	Hartford, CT
Harvard Pilgrim Health Care Inc.	Wellesley, MA
Heller Ehrman LLP	San Francisco, CA
Herman Miller Inc.	Zeeland, MI
Hewitt Associates	Lincolnshire, IL
Hewlett-Packard Co.	Palo Alto, CA
Holland & Knight LLP	New York, NY
Honeywell International Inc.	Morristown, NJ
Hospira Inc.	Lake Forest, IL
HSBC USA Inc.	Prospect Heights, IL
IndyMac Bancorp Inc.	Pasadena, CA
ING North America Insurance Corp.	Atlanta, GA
Intel Corp.	Santa Clara, CA
International Business Machines Corp. (IBM)	Armonk, NY
Intuit Inc.	Mountain View, CA
J.C. Penney Co. Inc.	Plano, TX
J.P. Morgan Chase & Co.	New York, NY
Jenner & Block LLP	Chicago, IL
Johnson & Johnson	New Brunswick, NJ
Kaiser Permanente	Oakland, CA
KeyCorp	Cleveland, OH
Keyspan Corp	Brooklyn, NY
Kimpton Hotel & Restaurant Group Inc.	San Francisco, CA
Kirkland & Ellis	Chicago, IL
KPMG LLP	New York, NY
Kraft Foods Inc.	Northfield, IL
Kramer Levin Naftalis & Frankel LLP	New York, NY
Latham & Watkins LLP	New York, NY
Lehman Brothers Holdings	New York, NY
Levi Strauss & Co.	San Francisco, CA
Lexmark International Inc.	Lexington, KY
Liz Claiborne Inc.	New York, NY
Macy's Inc.	Cincinnati, OH
Marriott International Inc.	Washington, DC
Massachusetts Mutual Life Insurance Co.	Springfield, MA
MasterCard Inc.	Purchase, NY

Employer	Headquarters Location
McDermott Will & Emery LLP	Chicago, IL
McKinsey & Co. Inc.	New York, MA
Mellon Financial Corp.	Pittsburgh, PA
Merck & Co. Inc.	Whitehouse Station, NJ
Merrill Lynch & Co.	New York, NY
MetLife Inc.	New York, NY
Microsoft Corp.	Redmond, WA
Mintz, Levin, Cohn, Ferris, Glovsky & Popeo	Boston, MA
Mitchell Gold + Bob Williams	Taylorsville, NC
Morgan Stanley & Co. Incorporated	New York, NY
Morrison & Foerster LLP	San Francisco, CA
Motorola Inc.	Schaumburg, IL
National Grid USA	Westborough, MA
Nationwide	Columbus, OH
NCR Corp.	Dayton, OH
New York Times Co.	New York, NY
Newell Rubbermaid Inc.	Atlanta, GA
Nike Inc.	Beaverton, OR
Nixon Peabody LLP	Rochester, NY
Nordstrom Inc.	Seattle, WA
Northern Trust Corp.	Chicago, IL
Northrop Grumman Corp.	Los Angeles, CA
O'Melveny & Myers LLP	Los Angeles, CA
Oracle Corp.	Redwood Shores, CA
Orrick, Herrington & Sutcliffe	San Francisco, CA
Paul, Hastings, Janofsky & Walker LLP	Los Angeles, CA
PepsiCo Inc.	Purchase, NY
Pfizer Inc.	New York, NY
PG&E Corp.	San Francisco, CA
Pillsbury Winthrop Shaw Pittman LLP	San Francisco, CA
Powell Goldstein LLP	Atlanta, GA
PricewaterhouseCoopers LLP	New York, NY
Principal Financial Group	Des Moines, IA
Prudential Financial Inc.	Newark, NJ
Raytheon Co.	Waltham, MA
Recreational Equipment Inc.	Kent, WA
Replacements Ltd.	McLeansville, NC
S.C. Johnson & Son Inc.	Racine, WI
Schering-Plough Corp.	Kenilworth, NJ
Sears Holdings Corp.	Hoffman Estates, IL
Sidley Austin LLP	Chicago, IL
Sodexo Inc.	Gaithersburg, MD
Sonnenschein, Nath & Rosenthal	Chicago, IL

Employer	Headquarters Location
Sprint Nextel Corp	Reston, VA
Starbucks Corp.	Seattle, WA
Starcom MediaVest Group	Chicago, IL
Starwood Hotels & Resorts Worldwide	White Plains, NY
State Street Corp.	Boston, MA
Subaru of America Inc.	Cherry Hill, NJ
Sun Microsystems Inc.	Santa Clara, CA
SunTrust Banks Inc.	Atlanta, GA
Supervalu Inc.	Eden Prairie, MN
Tech Data Corp.	Clearwater, FL
Time Warner Inc.	New York, NY
Toyota Motor Sales USA Inc.	Torrance, CA
Travelport Inc.	Parsippany, NJ
U.S. Bancorp	Minneapolis, MN
UBS AG	Stamford, CT
United Parcel Service Inc. (UPS)	Atlanta, GA
US Airways Group Inc.	Tempe, AZ
Viacom Inc.	New York, NY
Visa	Foster City, CA
Volkswagen of America Inc.	Auburn Hills, MI
Wachovia Corp.	Charlotte, NC
Walgreens Co.	Deerfield, IL
Walt Disney Co.	Burbank, CA
Washington Mutual Inc.	Seattle, WA
Waste Management Inc.	Houston, TX
Wells Fargo & Co.	San Francisco, CA
Whirlpool Corp.	Benton Harbor, MI
Wyndham Worldwide Corp.	Parsippany, NJ
Xerox Corp.	Stamford, CT
Yahoo! Inc.	Sunnyvale, CA

APPENDIX C

Illustrative List of LGBT-Affiliated Non-Profit Organizations⁴⁴

<u>Organization</u>	<u>Location(s)</u>	<u>Website</u>	<u>IRS-listed Charitable Organization⁴⁵</u>
ACLU Lesbian and Gay Rights Project	New York, NY	www.aclu.org/lgbt	No
Affinity Community Services	Chicago, IL	www.affinity95.org	Yes
AIDS Health Project	San Francisco, CA	www.ucsf-ahp.org	No
AIDS Legal Referral Panel (“ALRP”)	San Francisco, CA	www.alrp.org	No
AIDS Lifecycle	Los Angeles, CA; San Francisco, CA	www.aidslifecycle.org	No
AIDS Walk	Ft. Lauderdale, FL; Los Angeles, CA; New York, NY; San Francisco, CA	www.aidswalk.net	No
Allgo	Austin, TX	www.allgo.org	No
Alliance For Full Acceptance	Charleston, SC	www.affa-sc.org	Yes
American Institute of Bisexuality / Bisexual Foundation	San Diego, CA	www.bisexual.org	Yes
Asian and Pacific Islander Wellness Center	Daly City, CA; Oakland, CA; San Francisco, CA	www.apowellness.org	No
Asian Pacific Islander Queer Women & Transgender Coalition	San Francisco, CA	www.apiqtc.prg	No
Association of Latino Men for Action (“ALMA”)	Chicago, IL	www.almachicago.org	No
Atlanta Black Gay Pride	Atlanta, GA	www.inthelifeatl.com	No
Atticus Circle	Austin, TX	www.atticuscircle.org	No
Basic Rights Oregon	Portland, OR	www.basicrights.org	No
Bay Area Physicians for Human Rights	San Francisco, CA	www.baphr.org	Yes
Bisexual Resource Center	Boston, MA	www.biresource.org	Yes
Black Coalition on AIDS	San Francisco, CA	www.bcoa.org	Yes
Boston Alliance of Gay and Lesbian Youth (“BAGLY”)	Boston, MA	www.bagly.org	No
Center Advocates	Milwaukee, WI	www.centeradvocates.org	No
Center for Lesbian and Gay Civil Rights	Philadelphia, PA	www.center4civilrights.org	No
Chicago Lesbian and Gay Film Festival	Chicago, IL	www.reelingfilmfestival.org	No
Children of Lesbians and Gays Everywhere (“COLAGE”)	San Francisco, CA	www.colage.org	No
China Rainbow Association	Los Angeles, CA	www.chinarainbow.org	No
Citizens for Equal Protection	Omaha, NE	www.cfep-ne.org	Yes
Colorado Anti-Violence Program	Denver, CO	www.coavp.org	No
Connecticut TransAdvocacy Coalition	West Hartford, CT	www.transadvocacy.com	No
Empire State Pride Agenda / Empire State Pride Agenda Foundation	New York, NY	www.prideagenda.org	Yes

⁴⁴ This is a non-exhaustive sample. Additional LGBT resources may be located at <http://www.outproud.org/>.

⁴⁵ This field states whether at least one of the listed organizations on each line in this appendix appears in Internal Revenue Service Publication 78 (available at <http://apps.irs.gov/app/pub78>). As stated by the IRS, “Publication 78 contains a list of organizations to which charitable contributions are deductible for federal income tax purposes. The list is not all-inclusive. If an organization is not listed but has a ruling or determination letter holding contributions to be deductible, generally the letter will serve as evidence to contributors of the deductibility of their contributions.” See <http://www.irs.gov/charities/article/0,,id=96136,00.html>, retrieved on November 6, 2007.

<u>Organization</u>	<u>Location(s)</u>	<u>Website</u>	<u>IRS-listed Charitable Organization</u> ⁴⁵
Equal Rights Colorado	Denver, CO	www.equalrightscolorado.org	No
Equal Rights Washington / Equal Rights Washington Foundation	Seattle, WA	www.equalrightswashington.org	Yes
Equality Advocates Pennsylvania	Philadelphia, PA	www.center4civilrights.org	Yes
Equality Alabama	Birmingham, AL	www.equalityalabama.org	No
Equality Arizona	Phoenix, AZ	www.equalityarizona.org	No
Equality California / Equality California Institute / Let California Ring	Los Angeles, CA; Palm Springs, CA; Sacramento, CA; San Francisco, CA	www.eqca.org www.letcaliforniaring.org	Yes
Equality Federation / Equality Federation Institute	San Francisco, CA	www.equalityfederation.org	No
Equality Florida	Jacksonville, FL; Miami, FL; Orlando, FL; St. Petersburg, FL	www.eqfl.org	Yes
Equality Illinois	Chicago, IL	www.equalityillinois.org	Yes
Equality Maine	Portland, ME	www.equalitymaine.org	Yes
Equality Maryland / Equality Maryland Foundation	Silver Spring, MD	www.equalitymaryland.org	No
Equality Mississippi	Jackson, MS	www.equality.ms	No
Equality New Mexico / Equality New Mexico Foundation	Albuquerque, NM	www.eqnm.org	Yes
Equality North Carolina / Equality North Carolina Foundation	Raleigh, NC	www.equalitync.org	Yes
Equality Ohio / Equality Ohio Education Fund	Columbus, OH	www.equalityohio.org	Yes
Equality South Dakota / South Dakotans Against Discrimination		www.againstdiscrimination.org	No
Equality Texas / Equality Texas Foundation	Austin, TX	www.equalitytexas.org	Yes
Equality Utah / Equality Utah Foundation	Salt Lake City, UT	www.equalityutah.org	Yes
Equality Virginia / Equality Virginia Education Fund	Richmond, VA	www.equalityvirginia.org	Yes
Fair Wisconsin	Madison, WI	www.fairwisconsin.com	No
Family Equality Council (formerly Family Pride)	Boston, MA	www.familyequality.org	No
FilmOut San Diego	San Diego, CA	www.filmoutsandiego.com	No
Frameline	San Francisco, CA	www.frameline.org	Yes
Freedom to Marry / Freedom to Marry Foundation	New York, NY	www.freedomtomarry.org	Yes
FTM International	San Francisco, CA	www.ftmi.org	No
Garden State Equality	Montclair, NJ	www.gardenstateequality.org	No
Gay and Lesbian Advocates and Defenders (“GLAD”)	Boston, MA	www.glad.org	No
Gay and Lesbian Alliance Against Defamation (“GLAAD”)	Los Angeles, CA; New York, NY	www.glaad.org	No
Gay and Lesbian Medical Association	San Francisco, CA	www.glma.org	No
Gay Asian Pacific Alliance	San Francisco, CA	www.gapa.org	No
Gay Men’s Health Crisis	New York, NY	gmhc.org	No
Gay, Lesbian, and Straight Education Network (“GLSEN”)	New York, NY	www.glsen.org	No
Gay, Lesbian, Bisexual, and Transgender Mental Health Alliance		www.glbtmha.org	No
Georgia Equality / Equality Foundation of Georgia	Atlanta, GA	www.georgiaequality.org	Yes
Gill Foundation	Denver, CO	www.gillfoundation.org	Yes
Hetrick Martin Institute	New York, NY	www.hmi.org	No
Human Rights Campaign (“HRC”) / Human Rights Campaign Foundation	Washington, DC	www.hrc.org	Yes

<u>Organization</u>	<u>Location(s)</u>	<u>Website</u>	<u>IRS-listed Charitable Organization</u> ⁴⁵
Human Rights Watch – Lesbian, Gay Bisexual and Transgender Rights Program	New York, NY	hrw.org/lgbt	Yes
Illinois Gender Advocates	Chicago, IL	www.genderadvocates.org	No
Immigration Equality	New York, NY	www.immigrationequality.org	Yes
Indiana Equality	Indianapolis, IN	www.indianaequality.org	No
Indiana Fairness Alliance	Indianapolis, IN	www.indyfairness.org	No
Indiana Transgender Rights Advocacy Alliance	Indianapolis, IN	www.intraa.org	No
International Gay and Lesbian Human Rights Commission (“IGLHRC”)	New York, NY	www.iglhrc.org	No
International Federation of Black Prides	Washington, DC	www.ifbprides.org	No
International Lesbian and Gay Association	Brussels, BE	www.ilga.org	No
Kaleidoscope Youth Center	Columbus, OH	www.kaleidoscope.org	Yes
Kentucky Fairness Alliance	Frankfort, KY	www.kentuckyfairness.org	Yes
Khush DC	Washington, DC	www.khushdc.org	
Lambda Legal Defense and Education Fund	Atlanta, GA; Chicago, IL; Dallas, TX; Los Angeles, CA; New York, NY	www.lambdalegal.org	Yes
Lavender Youth Recreation and Information Center (“LYRIC”)	San Francisco, CA	www.lyric.org	Yes
Lesbian and Gay Chorus	Nationwide (e.g. San Francisco, CA)	e.g. www.sfgmc.org	Yes
Lesbian Herstory Archives	New York, NY	www.lesbianherstoryarchives.org	No
Lesbians for Change	Albuquerque, NM	members.aol.com/commnbond/lfc.html	No
LGBT Community Centers	Nationwide (e.g. San Francisco, CA)	e.g. www.sfcenter.org	No
Magnet	San Francisco, CA	www.magnetsf.org	No
Marriage Equality New York	New York, NY	www.marriageequalityny.org	Yes
Marriage Equality USA	Oakland, CA	www.marriageequality.org	No
Matthew Shepherd Foundation	Denver, CO	www.matthewshepard.org www.matthewsplace.com	No
Mautner Project, the National Lesbian Health Organization / Mary-Helen Mautner Project for Lesbians With Cancer	Washington, DC	www.mautnerproject.org	Yes
Michigan Equality / Michigan Equality Education Fund	Lansing, MI	www.michiganequality.org	Yes
Montana Human Rights Network	Helena, MT	www.mhrn.org	Yes
National Association of Lesbian, Gay, Bisexual, and Transgender Community Centers	Washington, DC	www.lgbtcenters.org	No
National Black Justice Coalition	Washington, DC	www.nbjcoalition.org	Yes
National Center for Lesbian Rights (“NCLR”)	San Francisco, CA; Washington, DC; St. Petersburg, FL	www.nclrights.org	Yes
National Center for Transgender Equality	Washington, DC	www.nctequality.org	No
National Coalition for LGBT Health	Washington, DC	www.lgbthealth.net	No
National Consortium of Directors of Lesbian Gay Bisexual and Transgender Resources in Higher Education		www.lgbtcampus.org	No
National Gay and Lesbian Chamber of Commerce	Washington, DC	www.nglcc.org	No

<u>Organization</u>	<u>Location(s)</u>	<u>Website</u>	<u>IRS-listed Charitable Organization</u> ⁴⁵
National Gay and Lesbian Task Force (“NGLTF”) / National Gay and Lesbian Task Force Foundation	Cambridge, MA; Los Angeles, CA; New York, NY; Miami, FL; Minneapolis, MN; Washington, DC	www.thetaskforce.org	Yes
National Minority AIDS Council / AIDS Programs of the National Minority Aids Council	Washington, DC	www.nmac.org	Yes
National Transgender Advocacy Coalition	Washington, DC	www.ntac.org	No
National Youth Advocacy Coalition	Washington, DC	www.nyacyouth.org	Yes
New Leaf	San Francisco, CA	www.newleafservices.org	Yes
NewFest	New York, NY	www.newfest.org	No
Northeast Two-Spirit Society	New York, NY	www.ne2ss.org	No
Oklahomans for Equality	Tulsa, OK	www.okeq.org	Yes
Old Lesbians Organizing for Change	Athens, OH	www.oloc.org	No
One Iowa	Des Moines, IA	www.one-iowa.org	No
One-in-Teen Youth Services	Nashville, TN	www.one-in-teen.org	No
Out and Equal Workplace Advocates	San Francisco, CA	www.outandequal.org	No
Outfest	Los Angeles, CA	www.outfest.org	Yes
Out4Immigration	San Francisco, CA	www.out4immigration.org	Yes
OutYouth	Austin, TX	www.outyouth.org	No
Parents, Families and Friends of Lesbians and Gays (“PFLAG”)	Washington, DC	www.pflag.org	No
Power Up!	Los Angeles, CA	www.power-up.net	No
Pride At Work, AFL-CIO	Washington, D.C.	www.prideatwork.org	No
Pride Law Fund	San Francisco, CA	www.pridelawfund.org	Yes
PROMO / PROMO Fund	St. Louis, MO; Kansas City, MO; Springfield, MO	www.promoonline.org	Yes
Queers for Economic Justice	New York, NY	www.queersforeconomicjustice.org	No
Reel Affirmations	Washington, DC	www.reelaffirmations.org	No
San Francisco AIDS Foundation	San Francisco, CA	www.sfaf.org	Yes
San Francisco Frontrunners	San Francisco, CA	www.sffrontrunners.org	No
San Francisco Tsunami	San Francisco, CA	www.sftsunami.org	Yes
Senior Action in a Gay Environment (“SAGE”)	New York, NY	www.sageusa.org	No
Servicemembers Legal Defense Network (“SLDN”)	Washington, DC	www.sldn.org	Yes
Shanti	San Francisco, CA	www.shanti.org	Yes
Soulforce	Lynchburg, VA	www.soulforce.org	No
South Asian Lesbian and Gay Association	New York, NY	www.salganyc.org	No
South Carolina Equality Coalition / South Carolina Equality Coalition Foundation	Columbia, SC	www.scequality.org	Yes
Southern Arizona Transgender Alliance	Tucson, AZ	sagatucson.org	No
Stop AIDS Project	San Francisco, CA	www.stopaids.org	Yes
Tennessee Equality Project / Tennessee Equality Project Foundation	Nashville, TN	www.tnep.org	Yes
Transgender American Veterans Association	Akron, OH	www.tavausa.org	Yes
Transgender Law and Policy Institute	Brooklyn, NY	www.transgenderlaw.org	No
Transgender Law Center (“TLC”)	San Francisco, CA	www.transgenderlawcenter.org	Yes

<u>Organization</u>	<u>Location(s)</u>	<u>Website</u>	<u>IRS-listed Charitable Organization</u> ⁴⁵
Transgender Legal Defense and Education Fund	New York, NY	www.transgenderlegal.org	Yes
Trikone	San Francisco, CA	www.trikone.org	Yes
Unid@s National Latina/o Lesbian, Gay, Bisexual & Transgender Human Rights Organization		www.unidoslgbt.org	No
Whitman-Walker Clinic	Washington, DC	www.wwc.org	Yes
Wingspan	Tucson, AZ	www.wingspan.org	Yes
Wyoming Equality	Cheyenne, WY	www.wyomingequality.org	No
Your Family, Friends, and Neighbors	Boise, ID	www.yffn.org	No
Zuna Institute	Sacramento, CA	www.zunainstitute.org	No

APPENDIX D

LGBT Equality Subcommittee Contributors

Co-Chairs

Kelly Dermody

L. Julius M. Turman

Individuals

Merri Baldwin

Sonia Banerji

Sharon Bunzel

Nanci Clarence

Angela Dalfen

Daniel Dean

Lisa Dickenson

Dora Dome

Vanessa Eisemann

Ronald Flynn

Angel Garganta

Shay Gilmore

Jamison Green

John T. Hendricks

David Hopmann

Yolanda Jackson

D'Arcy Kemnitz

Josh Klipp

Bill Lann Lee

David Lowe

Kelly McCown

Brian McDonald

Shannon Minter

Ann Murphy

Teresa Renaker

Laurie Simonson

Luann Simmons

Eugene Stuart

Jim Weixel

Kristina Wertz

Organizations

Bar Association of San Francisco

Bay Area Lawyers for Individual Freedom

National Center for Lesbian Rights

Transgender Law Center

National Lesbian and Gay Law Association

APPENDIX E

Checklist of LGBT Best Practices

Practice	Currently Doing	Planning to Implement
Leadership and Culture		
Communicate that LGBT lawyers are welcome through senior management’s use of appropriate words and action.		
Employer includes LGBT issues in firm’s diversity efforts.		
If employer has a diversity committee, employer appoints LGBT attorneys to serve on it.		
Employer supports community events that have an LGBT focus.		
Employer periodically includes items of interest to LGBT employees in internal communications.		
Employer pays membership dues/fees in LGBT bar associations or other legal organizations on the same basis as such dues are paid for other minority bar groups.		
Employer supports affinity groups related to LGBT issues.		
Employer provides support to transgender attorneys undergoing gender transition to enable them to continue performing the essential functions of the job through this period.		
Benefits		
Employer provides benefits (medical, retiree medical, dental, vision, life insurance) to same-sex domestic partners and dependents of domestic partners on the same terms provided to opposite-sex spouses and their dependents.		
Employer provides benefits continuation coverage (“COBRA”) to same-sex domestic partners and dependents of domestic partners on the same terms provided to opposite-sex spouses and their dependents.		
Employer subscribes to insurance carrier that covers transition-related care for transgender employees.		

Practice	Currently Doing	Planning to Implement
If employer does not subscribe to insurance carrier that covers transition-related care for transgender employees, employer has sought to remove exclusionary language that may operate to bar coverage for transgender employees from existing insurance contracts.		
Employer allows adoption assistance to be used for adoption of a same-sex domestic partner's child.		
Employer "grosses up" employee pay in the amount of the tax on imputed income from same-sex domestic partner medical benefits or other benefits.		
Employer extends bereavement leave upon the death of a same-sex domestic partner or family member of a same-sex domestic partner on the same terms as extended on the death of an opposite-sex spouse or family member of an opposite-sex spouse.		
Employer provides pension plan survivor benefits to surviving same-sex domestic partners on the same terms provided to surviving opposite-sex spouses.		
Employer provides relocation assistance for same-sex domestic partner or dependents on the same basis as for employees with opposite-sex spouses.		
Employer ensures that employee benefits plans do not require same-sex domestic partners to establish a higher level of formality of the relationship than is required of opposite-sex married couples.		
Employer assures that human resources and benefits employees receive training on benefits eligibility requirements for same-sex domestic partners.		
Employer provides employees with option to designate themselves and their beneficiaries as "domestic partner" or "registered domestic partner," as appropriate, on benefit plan census, enrollment, and beneficiary designation forms.		
Professional Development		
Employer takes affirmative steps to assure that each junior LGBT attorney has at least one mentor.		
Employer takes affirmative steps to create networking opportunities for LGBT attorneys.		

Practice	Currently Doing	Planning to Implement
Senior management refers positively to LGBT attorneys and issues in company/firm communications and at firm social events.		
Employer broadcasts support for LGBT attorneys across company/firm offices.		
Training		
Senior management lends its support and prestige to LGBT-related training.		
Employer offers regular training on LGBT issues.		
Employer uses training to make the business case for diversity and highlights the negative impact of discrimination.		
Employer provides focused training on LGBT issues to personnel with recruitment, hiring, assignment, and evaluation responsibilities.		
Employer provides specific training directed to transgender issues.		
Recruiting/Hiring		
Employer includes LGBT lawyers in recruiting activities.		
Employer offers all applicants the option of meeting an LGBT attorney as part of the interviewing process.		
Employer uses marketing materials targeted to LGBT candidates and identifies its openly LGBT partners or associates at the firm.		
Employer uses targeted recruitment to increase the pool of LGBT candidates.		
Employer is explicit about its policies and benefits directed to equality for LGBT lawyers.		
Employer hosts receptions or educational events for LGBT law student groups and/or LGBT bar associations, where students and lawyers can meet firm attorneys.		
Employer ensures that LGBT recruitment policies are consistently followed at other offices of the employer.		
Employer participates in LGBT job fairs.		

Practice	Currently Doing	Planning to Implement
Employer supports programs for LGBT law students.		
Marketing, Philanthropy and <i>Pro Bono</i>		
Employer supports LGBT community events and fundraisers.		
Employer recognizes employee volunteer work benefiting LGBT causes.		
Employer includes LGBT organizations and causes among annual giving, workplace giving, and gift matching programs.		
Employer highlights philanthropic and <i>pro bono</i> commitments to LGBT issues in marketing materials and press releases.		
Transgender Lawyers and Awareness of Transgender Issues		
To the extent employer has non-discrimination policies, employer maintains policies of non-discrimination based on gender identity or expression.		
Employer examines workplace customs to ensure that gendered practices are eliminated or ameliorated, including access to gender-neutral bathrooms.		
Employer educates managers on the benefits of recruiting and developing transgender employees and implementing workplace education to ensure equal opportunity for existing transgender employees.		
Employer supports continued study of the barriers to equal access for transgender lawyers.		



THE BAR ASSOCIATION OF
SAN FRANCISCO

Thanks to Morgan, Lewis & Bockius, LLP for
underwriting the printing of this report.

Morgan Lewis