

SOCIETY FOR HUMAN RESOURCE MANAGEMENT (SHRM)

Ensuring Workplace Inclusion for LGBTQ Employees

Guidance Document

Website Document

This document was developed and is owned by SHRM. IRMA's publication on our website complies with the license agreement entered on January 25, 2022. This license agreement is valid from February 1, 2022 – July 31, 2022 and can be produced upon request. Please note this is a sample policy and the language contained is only suggested language, which may be edited by you as appropriate. The policies and guidelines do not constitute as legal advice by IRMA. As always, you are encouraged to review this policy and any additions or deletions thereto with your corporate counsel before adopting.

IRMA Publish Date: May 23, 2022

Overview

It is well-known that diverse organizations outperform less-diverse competitors in revenue, profits and employee satisfaction.^[i] However, hiring individuals from different backgrounds to maintain diversity isn't sustainable without a culture of inclusion that truly welcomes all individuals for who they are and encourages everyone to succeed at work.

In today's workplace, ensuring that diversity, equity and inclusion efforts include individuals who are lesbian, gay, bisexual, transgender and queer (LGBTQ) is essential for business success. Employers that have inclusive practices for LGBTQ individuals gain the support and respect of not only that community, but also of other minority groups that recognize the efforts as an indicator of an overall inclusive work environment. The majority of individuals in the U.S. support the LGBTQ community^[ii] and seek out places to work and spend their money based on the diversity and inclusion practices of the company. Employers see the positive impact in almost all aspects of business, from employee recruitment and retention to revenue and profits.

Having a written policy isn't enough. Even if an employee is in a workplace with internal policies that protect LGBTQ workers, a company's culture may inhibit employees from bringing their whole selves to work. A survey by LeanIn.org and McKinsey & Co. found that LGBTQ women are more than twice as likely as straight, cisgender women to feel as though they cannot talk about themselves or their life outside work. The same survey found that LGBTQ women who are open about their sexual orientation at work are happier, view their workplaces more favorably and intend to stay at their current employer longer than LGBTQ women who are not open about their sexual orientation or gender identity.^[iii]

This toolkit provides information and resources to help employers create a workplace that values the differences among individuals and where people can feel comfortable bringing their full selves to work.

See [A Sense of Belonging](#) and [6 Steps for Building an Inclusive Workplace](#).

Terminology

The Human Rights Campaign provides the following glossary of terms to assist in the understanding of and communication about sexual orientation and gender identity and expression. LGBTQ people use a variety of terms to identify themselves, not all of which are included in this glossary. Always listen for and respect a person's self-identified terminology.

[Check out the Human Rights Campaign's Glossary of Terms.](#)

Effective Practices

A report by the IBM Institute for Business Value (IBV), Out & Equal Workplace Advocates and Workplace Pride includes tangible actions employers can take to further inclusion of LGBTQ employees. "Companies can play a big part in making it easier for employees to bring their authentic selves to work," according to the report. "Getting more [LGBTQ] people in visible leadership roles is a good start—though that may require filling the leadership pipeline first. Creating intentional mentorship and sponsorship programs can help companies do their part to combat discrimination while also learning more about individual employee needs." See [Striving for authenticity: LGBT+ views on enduring discrimination and expanding inclusion](#).

The following practices are examples of how employers can build a culture of inclusion in the workplace. As with any group, LGBTQ individuals are not monolithic, so employers should

consider the following practices from a place of empathy that engages the individual and encourages their well-being.

UPDATE POLICIES

Employers should ensure that all anti-harassment, bullying and nondiscrimination policies include LGBTQ individuals. Review other policies such as dress code expectations and make sure they are neutral without gender stereotypes. Policies requiring women to wear make-up or prohibiting men from wearing jewelry should be replaced with neutral expectations. General Motors gained national attention when CEO Mary Barra replaced a 10-page dress code with two words: Dress appropriately. This simple statement allows for individuals to exercise discretion and judgment in their own appearance while empowering supervisors and managers to coach individuals on appropriate attire depending on the person's job duties. However, this simplicity comes with the risk of allowing bias to seep in when supervisors and managers are enforcing appearance expectations. Employers must take steps to identify and eliminate such biases by educating people managers on unconscious bias and the importance of fair and consistent treatment.

Concerns and questions often arise regarding which bathroom should be used by a transgender employee. An employee should be permitted to use the restroom consistent with the individual's gender identity. To require an employee to use a restroom that differs from the employee's identified gender, or to restrict a transgender employee (and not others) to using only a single-user restroom is discriminatory treatment. Employers may want to create single-user restrooms for all employees or offer [gender-neutral restrooms](#) to be used by anyone. See [Facility/Bathroom Access and Gender Identity](#).

Organizations should establish a culture which appreciates that there are differences among employees and insist that all employees are treated fairly. But putting words on paper isn't enough. Leaders must model inclusive behaviors and adopt a zero-tolerance approach to disrespect and incivility at work. Implementing 360-degree feedback tools on leadership's inclusive behaviors can be an effective tool for coaching and learning. See [The Key to Inclusive Leadership](#).

SET EXPECTATIONS

An inclusive work environment is one where all employees are able to contribute and feel like they belong; it does not require that employees agree with another individual's lifestyle. Regardless of how someone feels about another person's sexual orientation, gender identity or gender expression, all employees should also be required to treat everyone with respect. Organizations should define appropriate workplace behaviors that are consistent with the employer's stated beliefs and values about inclusion, such as using an individual's preferred name and pronouns and speaking up when someone is not being treated respectfully. This process is about changing employees' workplace behaviors to be in accordance with the company's expectations, not changing an employee's personal beliefs. See [LGBTQ+ Rights: More Work Remains for HR](#).

USE PERSONAL PRONOUNS

Some transgender and gender-nonconforming individuals use pronouns other than he/him/his or she/her/hers, such as they/them/theirs or ze/hir. While it may not come naturally to refer to an individual as "them," if that is the pronoun an individual uses, that is the pronoun that should be used by others. For example, if Kai's pronouns are they/them, Kai's supervisor would say to a co-worker, "Kai needs this report today. Can you get it to them by 5 p.m.?" or "Kai will be out of the office next week. They are attending a conference in Austin." Refusal to use an employee's

preferred name and gender pronoun can rise to the level of illegal harassment when done intentionally and persistently, according to the Equal Employment Opportunity Commission (EEOC).

Many individuals include personal pronouns in their e-mail signatures or other written materials, and this isn't limited to those who identify as LGBTQ; many cisgender allies include their pronouns as an expression of support. See [Creating a Trans-Inclusive Workplace](#).

Inclusive employers are also removing gender-based pronouns from employee handbooks and other company materials. Replacing "he" or "she" with "they" indicates support and acceptance of non-binary individuals who do not identify as male or female. See [More Employee Handbooks Replace 'He' and 'She' with 'They'](#).

IDENTIFY INTERNAL ALLIES AND AMBASSADORS

Nothing is more valuable to an employer's recruitment and retention efforts than positive testimonials from current employees. Ask individuals to share their stories about how they have experienced inclusive practices at your workplace. Highlight these stories internally through newsletters or the company intranet and utilize the stories externally for recruitment and branding purposes. See [How HR Is Using Visual Storytelling to Build Brand Awareness](#).

Celebrating individuals who are actively supportive and accepting of their LGBTQ co-workers, referred to as allies, also demonstrates an employer's commitment to inclusion. Feature allies in similar storytelling and ask for their participation when training and coaching others in inclusive practices. See [Tips for Serving as an Ally](#).

COMMUNICATE WITH EMPLOYEES

Information about the organization's policies and guidelines for LGBTQ-inclusive behavior and practices should be widely accessible for employees, supervisors and managers.

When it comes to sharing information about a person's gender identity or sexual orientation, that should be left solely to the individual. While an employee may disclose information to a manager or HR, they may not feel comfortable sharing to a wider audience. Others may be very open and eager to express themselves at work. An employee going through a gender transition, for example, may want to very openly disclose this to the workplace and work with the employer to educate co-workers about what to expect. Employers should only share information regarding sexual orientation, gender identity or gender expression with others when specifically asked to do so by the individual. See [Memo to Employees Announcing the Gender Transition of a Co-Worker](#).

PROVIDE TRAINING

Training employees to recognize and eliminate discrimination in the workplace is important for every employer, and updating the organization's presentations to cover LGBTQ individuals is essential to provide equal opportunity to all employees. Such training should be included in both new-hire and ongoing training offerings. This is another avenue where employee testimonials and workplace allies can be included to demonstrate the inclusive culture of the workplace. Various support groups may be able to provide sample training presentations or [speakers](#) to help employers ensure the training is appropriate. See SHRM's sample [training presentations](#) for templates that can be used to prepare and educate a workforce on employer nondiscrimination and diversity and inclusion expectations in general.

Examples of topics to cover include:

- LGBTQ terminology.
- Gender-neutral language.
- Examples of inclusive conduct.
- Understanding and addressing [implicit bias](#).
- Reporting harassment, discrimination or bullying.
- How to be an [ally](#).

Leaders, managers, HR professionals and anyone else interested in fostering inclusive work environments can earn an [Inclusive Workplace Culture](#) Specialty Credential from SHRM by completing three eLearning courses followed by a knowledge assessment on the topic of inclusivity and belonging at work.

Additional training materials and resources are available in the [SHRMStore](#).

Examples of external training resources can be found in the following links. Please note, SHRM does not endorse or recommend any particular resource or provider.

[Understanding and Managing Gay and Transgender Issues in the Workplace](#)

[LGBT Workplace Issues Resources](#)

[LGBTQ+ Workplace Education Center](#)

SUPPORT EMPLOYEE RESOURCE GROUPS

Employee resource groups (ERGs)—also known as employee networks, affinity groups and business groups—can be helpful in fostering inclusive work environments. These groups typically include employees who share a purpose, interest or background with the objective of improving employee engagement, increasing diversity, providing developmental and networking opportunities, and improving employee retention. See [Today's Affinity Groups: Risks and Rewards](#).

RECRUIT PURPOSEFULLY

Show potential job candidates the inclusive practices at your workplace from their first encounter with your organization.

- Share stories from your ambassadors and allies in brand videos, at career and college fairs, and on your careers website.
- Advertise the benefits available for same-sex partners, such as family leave and health coverage.
- Utilize niche job sites that are LGBTQ-friendly to actively recruit individuals from all gender identities and orientations.
- Sponsor pride events or advertise your organization with LGBTQ community events.
- Review your job postings to ensure gender-neutral language.
- Remove references to only male/female gender options in hiring materials.
- Encourage employees and candidates to share their pronouns in conversation or written communication such as e-mail signatures.
- Highlight employee resource groups in recruitment materials.

Large, private-sector employers can participate in the Human Rights Campaign's [Corporate Equality Index](#), which measures an employer's policies, practices and benefits for LGBTQ employees.

See:

[LGBTQ Professional and Student Associations](#)

[LGBTQ Professional Recruitment Events](#)

Federal Laws

Workplace inclusion for LGBTQ individuals isn't just the right thing to do; it's the law. The following provides a brief overview of the legal obligations for employers.

TITLE VII

In June 2020, the Supreme Court held that firing individuals because of their sexual orientation or transgender status violates Title VII of the Civil Rights Act of 1964's prohibition on discrimination because of sex in *Bostock v. Clayton County, Georgia*. The ruling prohibits employers with 15 or more employees from making adverse employment decisions, such as firing or refusing to hire an individual, because they are gay or transgender. See [What You Should Know: The EEOC and Protections for LGBTQ+ Workers](#) and [Checklist: LGBTQ Anti-Bias and Title VII Compliance](#).

FEDERAL CONTRACTORS

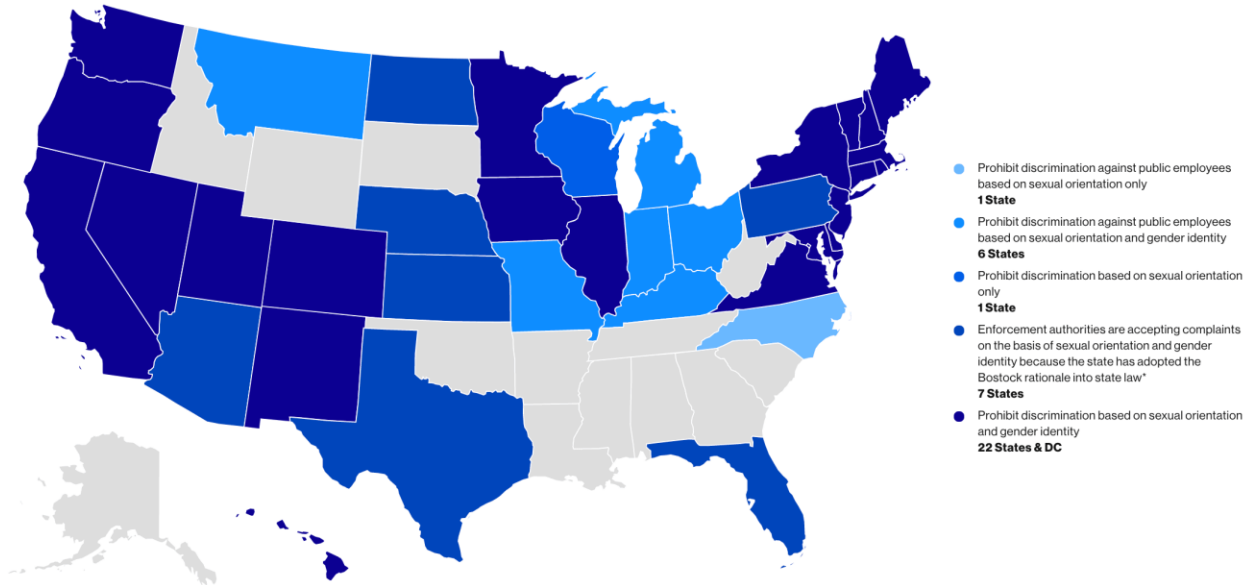
Federal contractors subject to affirmative action requirements under Executive Order 11246 are prohibited from discriminating against workers and job applicants based on sexual orientation and gender identity, under an [executive order](#) that President Barack Obama signed July 21, 2014. See [OFCCP: Frequently Asked Questions Sexual Orientation and Gender Identity](#).

HEALTH CARE

Section 1557 of the Affordable Care Act (ACA) prohibits discrimination on the basis of race, color, national origin, sex, age or disability by entities that primarily provide health care and receive federal funding. The Department of Health and Human Services (HHS) announced in a May 2021 statement that its Office for Civil Rights will define sex discrimination in accordance with the U.S. Supreme Court ruling in *Bostock*. While this guidance might not directly apply to certain employee health plans if neither the sponsoring employer nor the plan receives HHS funding, employers must ensure that their health plans do not contain provisions that could be discriminatory based on sex. See [Biden Administration Revives LGBTQ Health Care Protections](#) and [3 Checklists for Avoiding LGBTQ Discrimination in Your Benefits Programs](#).

State and Local Laws

Title VII covers employers that have 15 or more employees, but some state laws prohibiting sex discrimination cover smaller employers or provide more protection than federal law. According to the Human Rights Campaign, as of March 2021, 22 states and the District of Columbia prohibit discrimination based on sexual orientation and gender identity and an additional 7 states have begun adopting the *Bostock* decision into their state law.



Source: Human Rights Campaign

Additional Resources

[Toolkit: Employing Transgender Workers](#)

[Inclusion Code of Conduct](#)

[Nondiscrimination/Anti-Harassment Policy and Complaint Procedure](#)

[Equal Employment Opportunity Policy: Detailed](#)

[Equal Employment Opportunity Policy: Basic](#)

[Inclusion resources available in the SHRMStore](#)

Organizations

[Human Rights Campaign](#)

[National LGBT Chamber of Commerce](#)

[Pride at Work](#)

[Out & Equal](#)

Endnotes

[i] Diversity wins: How Inclusion Matters, McKinsey & Company, May 2020, <https://www.mckinsey.com/~media/mckinsey/featured%20insights/diversity%20and%20inclusion/diversity%20wins%20how%20inclusion%20matters/diversity-wins-how-inclusion-matters-vf.pdf>

[ii] Despite Partisan Rancor, Americans Broadly Support LGBTQ Rights: Findings from the 2020 American Values Atlas PRRI, March 23, 2021, <https://www.prii.org/research/despite-partisan-rancor-despite-partisan-rancor-americans-broadly-support-lgbtq-rights-broadly-support-lgbtq-rights/>

[iii] Women in the Workplace 2019, LeanIn.org and McKinsey, 2019, womenintheworkplace.com