



Diversity, Equity, and Inclusion

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Out in the Workplace: Where We Are, Where We've Been, and Where We Should Go

I am a second-year associate at a law firm in St. Louis, Missouri. I am a graduate of Washington University in St. Louis School of Law and Southeast Missouri State University. I am an avid tennis player, voracious reader, and lover of the law. And I am gay.

Members of the LGBTQ community represent a growing number of individuals in the legal field. In 2004, 1.07% of all lawyers at law firms in the United States identified as LGBTQ. NATIONAL ASSOCIATION FOR LAW PLACEMENT, INC., 2020 REPORT ON DIVERSITY IN U.S. LAW FIRMS, *available at* https://www.nalp.org/uploads/2020_NALP_Diversity_Report.pdf (citing *The NALP Directory of Legal Employers, 2004-2020*). In 2020, 3.31% of all lawyers at law firms in the United States identified as LGBTQ. *Id.* Although this reported percentage is small, and likely far less than in actuality, it is a growing percentage, and will only continue to grow in the future.

I have been fortunate to grow in a professional environment that supports and encourages me to be my authentic self. However, said fortune does not make me blind to the too-recent past. The legal world has long been a conservative environment, and it has not always been easy for members of the LGBTQ community to be their fully authentic selves in the workplace. Take the story of Anne Tompkins, who was once told that it was “Too bad [she’s] gay because [she] would make a great U.S. Attorney, but that would never happen.” Bloomberg Law—US Law Week, *It’s Gotten Better to Be LGBTQ in Big Law, but Struggles Remain* (July 29, 2020), *available at* <https://news.bloomberglaw.com/us-law-week/its-gotten-better-to-be-lgbtq-in-big-law-but-struggles-remain>. Tompkins would become only the second openly gay U.S. Attorney in 2010 and would later become a partner at Cadwalader. *Id.*

We have seen progress and growth in the legal world and the world at large. In 2015, the United States Supreme Court held that “[t]he Constitution . . . does not permit the State to bar same-sex couples from marriage.” *Obergefell v. Hodges*, 576 U.S. 644, 680 (2015). And in 2020, the Court held that it is unlawful, in violation of Title VII, for an employer to fire someone for being gay or transgender. *Bostock v. Clayton Cty., Georgia*, 140 S. Ct. 1731, 1754 (2020). These were both landmark decisions that expanded protections and rights for people in the LGBTQ community.

By all accounts, it is undeniable that progress has been made. But progress does not mean perfection. Despite the advancements made on our journey to equality, there is still a long way to go and plenty of work to do. All too recent are the days when LGBTQ professionals had to take a split-second pause to consider whether it is appropriate for them to come out—to colleagues, clients, even fleeting acquaintances. Those concerns are still very real today. To more broadly illustrate the remaining need for equality, consider that as recently as 2015, “[a]lmost 2.8 billion people [were] living in countries where identifying as gay could lead to imprisonment, corporal punishment or even death.” Human Rights Watch, *LGBT: Moving Towards Equality* (January 23, 2015), *available at* <https://www.hrw.org/news/2015/01/23/lgbt-moving-towards-equality>.

In light of the growing presence of LGBTQ individuals in the legal field, and considering the challenges LGBTQ individuals still face in their careers and beyond, as a profession we must ask ourselves, what can law firms do to assist



LGBTQ lawyers? Many firms today show their commitment to diversity and inclusion through “creating affinity groups, filing amicus briefs in favor of gay rights causes, and holding annual Pride celebrations.” *It’s Gotten Better to Be LGBTQ in Big Law, but Struggles Remain, supra*. Yet still, there are other firms that make performative statements and do nothing beyond that. Simply put, I think we can, and should, do more.

First, law firms should make sure that LGBTQ lawyers are represented at all levels of law firm structure, including upper management. When a law firm develops a culture of inclusivity spanning from the top of the ladder to the bottom, it reassures *all* employees that they have a meaningful, valued place in the firm.

Second, law firms should offer employee benefits that encompass the particular needs of the LGBTQ community. This could mean offering benefits for same-sex partners, offering domestic partner bereavement leave, offering domestic partner paternity/maternity leave, and assisting with the costs of nontraditional family planning, including benefits related to adoption and surrogacy, among other things.

Third, law firms should not only ‘talk the talk,’ they should ‘walk the walk.’ Law firms should have a plan outlining specific goals related to diversity and inclusion, and they should lay out specific steps as to how the plan will be implemented, including a timeline for implementation.

These three suggestions only scratch the surface of what law firms can do to make their LGBTQ members feel at home and valued. While the legal profession has no doubt improved in terms of diversity and inclusion, progress cannot stop now. As Cook County Circuit Judge Jill Rose Quinn said, “[w]hat our community has now we took, and it’s our responsibility to help those in our community to follow us.” Stephanie Villinski, *LGBT Lawyers Across Generations Reflect on Progress and Continued Challenges*, Supreme Court Commission on Professionalism: 2Civility (June 10, 2021), *available at* <https://www.2civility.org/lgbtq-lawyers-across-generations-reflect-on-progress-and-continued-challenges/>. I continuously work toward making the legal world a more welcoming and equal place for those that follow me, and I hope the rest of the legal community will too.

This article draws on suggestions expounded in The National LGBT Bar Association’s article in THE LGBT BAR, entitled “The Business of Inclusion: Raising the Bar on LGBT Diversity,” available at <https://lgbtbar.org/wp-content/uploads/2015/01/LGBT-Bar-Corporate-Counsel-Diversity-Toolkit.pdf>.

About the Author

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