

GEN EQ

GUIDE TO ENTERING THE WORKFORCE



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WELCOME

Entering the workforce is a rite of passage for many Americans. This rite involves unique challenges for lesbian, gay, bisexual and transgender Americans because there is no federal law that prohibits workplace discrimination based on sexual orientation or gender identity and expression.

What does this mean? Well, it means that the little statement at the bottom of a job posting – *This company is an Equal Employment Opportunity employer* – does not necessarily protect an LGBT person from discrimination. Federal law does not protect job seekers on the basis of sexual orientation or gender identity and expression. To complicate matters, the majority of states do not protect against workplace discrimination based on sexual orientation or gender identity and expression either. That means you could be protected where you go to school, but not where you live back at home.

Look at a map of statewide workplace protections.
www.hrc.org/stateworkplaceprotections

The good news is that many private employers offer workplace protections, but in reality, people are still being legally fired or denied employment for being lesbian, gay, bisexual or transgender.

Fortunately, there are strategies and resources available to enhance potential job opportunities.

The *GenEQ Guide to Entering the Workforce* was created to help LGBT young people make the transition to the workplace. Purposeful planning can help you navigate the decisions you'll make during the job search, such as finding employment policies and inclusive benefits, finalizing resume content, devising interview strategies and networking.

No matter what part of the coming out journey you are on, the decision to be out is yours alone – including if (and when and how) to be out as you search for a job. We hope this guide will enable you to make the choices and take the steps that are right for you.

YOUR VALUES

Determine how important it is for you to be out in your job and/or residence. How important is it to you to live in a state that recognizes your gender

identity, partner or employment rights? Are you someone who wants to live in a quiet rural area where there may not be as many LGBT-friendly organizations or do you prefer a fast-paced urban life where LGBT visibility is likely more prominent?

IDENTIFYING POTENTIAL EMPLOYERS

Most Americans believe that LGBT people should be protected from workplace discrimination. Most Americans believe LGBT people are already protected.

But the reality is that without federal protections and with limited state and local protections, many people still work someplace where the potential for biased employment decisions exist. When looking for a job, be aware that a patchwork of employment protections exists across the United States and from employer to employer.

Multiple factors – both external and internal – contribute to whether a workplace climate is welcoming and supportive of LGBT employees.

External

Federal: Federal employment discrimination protections are currently provided based on race, religion, gender, national origin, age and disability only, meaning each state decides whether or not to include discrimination protections for LGBT people.

State: Only 17 states plus the District of Columbia provide statewide non-discrimination protections for LGBT residents. Four states provide protection but only based on sexual orientation. Yet other states offer laws and policies covering only public employees. For a full breakdown, click here.

www.hrc.org/employmentlaws

Additionally, the Equal Employment Opportunity Commission (EEOC) has ruled that discrimination based on gender identity is covered as sex discrimination under Title VII of the Civil Rights Act of 1964. The decision makes it clear that transgender people across the country who have experienced workplace discrimination are able to file a claim with the EEOC under federal sex discrimination law.

Local: Cities and municipalities are learning that in order to attract the

best workers, they must treat LGBT residents with dignity and respect. HRC's Municipal Equality Index (MEI) examines cities that have made progress in this area and serves as a valuable tool for those who are job hunting. The MEI scored cities based on criteria such as non-discrimination laws, relationship recognition, city employment practices, and the inclusiveness of city services, law enforcement and municipal leadership.

www.hrc.org/mei

Also, as of this writing, there are 174 cities and counties that prohibit employment discrimination on the basis of gender identity in employment ordinances covering all public and private employers in those jurisdictions.

www.hrc.org/resources/entry/cities-and-counties-with-non-discrimination-ordinances-that-include-gender

Internal

Private employers can have their own non-discrimination policies that include sexual orientation and gender identity even if federal and/or state laws do not. In 2002, the Human Rights Campaign launched the Corporate Equality Index as a national benchmarking tool to assess and advise the largest U.S. employers on LGBT-inclusive protections, policies and benefits.

Here's what to look for:

Be sure to look for a clear declaration of non-discrimination toward LGBT employees which includes both "sexual orientation" and "gender identity" in an employer's non-discrimination or EEO statement. Note that anti-harassment or other corporate statements alone are not sufficiently inclusive of having a policy of non-discrimination towards LGBT employees and job applicants.

Workplace Climate Checklist

The following is a sample list of the LGBT-inclusive protections, policies and benefits that a potential employee should look for.

- Non-Discrimination Policy Includes "Sexual Orientation" and "Gender Identity"
- Benefits:
 - Domestic Partner Health and Additional Inclusive Benefits
 - "Grossed Up" Domestic Partner Benefits
- Family Medical Leave Includes Domestic Partners

- Transgender-Inclusive Health Benefits in Summary Plan Description
- LGBT Employee Resource Groups
- LGBT-Friendly Work Environment
- Public Commitment to LGBT Equality

LGBT-supportive policies and workplace climates are linked to greater job commitment, improved workplace relationships, increased job satisfaction and improved health outcomes among LGBT employees. Furthermore, LGBT-supportive policies and workplace climates are also linked to less discrimination against LGBT employees and more openness about being LGBT. Less discrimination and more openness, in turn, are also linked to greater job commitment, improved workplace relationships, increased job satisfaction, improved health outcomes and increased productivity among LGBT employees. – Williams Institute, May 2013

NON-DISCRIMINATION POLICIES

Whether you have decided to be out in the workplace or not, knowing that a potential employer has an inclusive non-discrimination policy makes good business sense for you. There are a number of ways to determine an employer's non-discrimination policy:

- Take a glance at HRC's Corporate Equality Index.

www.hrc.org/cei

- Search HRC's database of policies by employer in the Corporate Equality Index.

www.hrc.org/cei

- Job postings may include information about their non-discrimination policies. You may want to call the employer, identify yourself as someone considering employment and ask for a copy of the policy.
- Employer websites may have Equal Opportunity policies in their "Careers," "Jobs," "Diversity," "About Us" or "Corporate" sections.

Depending on your qualifications and goals, it might be helpful to seek out industry-specific employment information. HRC's database allows you to search by industry in both the private and public sectors.

Other industry-specific considerations include:

- **U.S. Military** – Since the repeal of "Don't Ask, Don't Tell" in 2010,

servicemembers have been able to serve regardless of sexual orientation. However, the U.S. Military Code still regards gender dysphoria as a mental illness that prohibits transgender Americans from serving as their true selves.

- **Federal Government** – The U.S. government, the largest employer in the country, has affirmative protections against sexual orientation- and gender identity-based discrimination. Married same-sex spouses have equal access to employee benefits, and some of those benefits are available to domestic partners as well.
- **Labor Unions** – Unions have often been some of the earliest and strongest supporters of LGBT equality in America. Recently, the AFL-CIO, the largest labor federation in the country, amended its constitution to ban discrimination based on gender identity and expression. In addition to progress at the national level, local unions have been working to make Collective Bargaining Agreements (CBA) inclusive of LGBT workers. Before joining a union, examine its CBA for LGBT non-discrimination policies and benefits.
- **Health Care Facilities** – Because explicit prohibition of LGBT employment discrimination is at the core of LGBT patient-centered care, HRC’s Healthcare Equality Index (HEI) considers inclusive non-discrimination policies one of its “Core Four” criteria. The current issue of the HEI includes employment policies for more than 700 participants.

www.hrc.org/hej

BENEFITS

Aside from actual wages paid, benefits account for, on average, roughly 20 percent of employees’ overall compensation. Companies often use generous benefits packages to attract potential workers. Many of the benefits that should be examined for LGBT-inclusion provide coverage for an employee’s family such as health care and family leave. While you may not currently have a significant other or children, LGBT inclusion in these benefits is still a good indicator of a company’s climate.

When the U.S. Supreme Court struck down parts of the Defense of Marriage Act, over 1,000 federal benefits became available to married same-sex couples. In the workplace, this means that any definition of “spouse” for benefits or other purposes now must recognize same-sex spouses, in most cases, even if the couple lives in a state that does not recognize their marriage. While this is a victory for LGBT equality, the fact remains that for many same-sex couples, getting married is simply not an option –

whether due to geography, finances or other factors. Employees who are in this position need to carefully examine details of any family benefit a company offers.

- **Domestic Partner (DP) Benefits** – Marriage equality has become more accessible across the country, but for many LGBT Americans it is still not a viable option. Identifying employers that offer domestic partner benefits is crucial. DP benefits can apply to mixed and/or same-sex partners. You may want to consider an employer who offers both if:
 - Either you or your partners are transgender. State laws and policies related to changing the sex marker on identification papers or birth certificates vary. Some transgender people have trouble obtaining marriage licenses and would need mixed-sex partner coverage for their partners.
 - You identify as bi- (or pansexual) and could potentially be in a same- or mixed-sex partnership.

As marriage equality continues to become a reality in more states, some employers have decided to stop offering DP benefits entirely. You may want to ask about their future plans with regard to DP benefits.

Relationship Recognition: In addition to learning about a potential employer's domestic partner benefits, you may want to look at the relationship recognition offered by the state in which that employer is based. From domestic partner benefits and civil unions to full marriage equality, where you live does affect your ability to care for your loved ones.

www.hrc.org/marriageequalitymap

- **Grossing Up** – Unlike married couple benefits, DP benefits are considered taxable income by the federal government and employees taking advantage of this benefit will, on average, pay more than \$1,069 in taxes. Some employers have acknowledged this inequity and now compensate employees by "grossing up" their salaries with the taxable amount.
- **Family and Medical Leave** – Under the Family Medical Leave Act (FMLA), certain employers must grant employees unpaid leave to care for parents, children or spouses in the event of a "serious medical condition" or the birth or adoption of a child. Under FMLA, the term "spouse" is defined as "a husband or wife as defined under state law", meaning employers in states with no marriage equality aren't required to extend this leave to domestic partners. A further shortcoming is the term "serious medical condition" which may not include treatments and conditions associated with gender dysphoria or with a person's medically-supervised transition.

Private employers are able to develop and offer more comprehensive medical leave policies that are inclusive of same-sex partners when defining family members and including gender dysphoria and gender transition procedures as a qualifying condition to grant medical leave to the employee or her or his partner.

- **Transgender-Inclusive Healthcare Coverage** – Many employers have EEO or non-discrimination policies that prohibit gender identity-based discrimination but these policies generally don't directly affect healthcare coverage. Due to the way that most health care insurance contracts are written, transgender people can be denied health insurance coverage, often regardless of whether those needs are related to transitioning. If you are transgender or have transgender dependents, you'll want to learn how a potential employer's health insurance plans treat transgender people, regardless of their medical needs, and what medical providers are available to them as part of their health insurance's provider network.

The Affordable Care Act (ACA) now makes it possible to obtain medical insurance even if you are not employed. The ACA improves health care access for LGBT people through non-discrimination protections, insurance market reforms, prevention and wellness, new coverage options and data collection. To clear up any confusion and to give the LGBT community the tools it needs to understand the ACA, Out2Enroll was created, providing coverage options and step-by-step instructions. www.out2enroll.org

Questions You Should Ask

- Does the plan have any broad or specific transgender exclusions?
- Does the plan affirm coverage for transition-related care?
- What benefits are specifically available (e.g. mental health counseling, hormone therapy, medical visits, lab procedures, surgical procedures, short-term leave, etc.) through transgender-inclusive healthcare coverage?
- Is a deductible or coinsurance required to utilize transgender-inclusive healthcare coverage?
- Do I have to use an in-network provider? What if one isn't available?
- What documentation do I need to change my/my dependent's sex in insurance policy records?

Finding this detailed level of information about insurance is often difficult and confusing for anyone – transgender or not. By law, employers are required to make summary information about their health insurance plans readily available to employees, but such documentation is not always up

to date in practice and, particularly for transgender-related concerns, can provide ambiguous information. Detailed information may not be available to a potential hire until an offer has been made and salary and benefit negotiations have begun.

Employee Resource Group (ERG)

LGBT employee resource groups — also known as employee affinity groups or business networks — provide visibility to the business goal of LGBT inclusion. This can be considered a benefit of a company. At the most basic level, such groups focus on retention of LGBT and allied employees, but they can also support business opportunities with LGBT consumers and other initiatives. Many ERG members act as mentors to newer employees, as well. ERGs offer an invaluable resource to you as a potential employee — by speaking directly with a member of the group you get a first-hand account of the workplace climate and a potential ally in your job search. You can search HRC's Employer Database for workplaces that have an ERG.

Networking

It's not what you know, it's who you know. This is not to discount your years of schooling, but rather acknowledge that connecting with people in your industry and community can make or break your job search. Networking is essentially marketing yourself — professionally, to aid in your job search and personally, in creating a support network. Networking with the LGBT community can be volunteering (e.g., find HRC in your community), attending receptions and going to job fairs. Leave no stone unturned — you never know when the person handing out flyers with you will turn out to be your dream job's hiring manager. LinkedIn has extensive LGBT groups and resources available to connect with other LGBT people in your industry. Many large urban areas also have LGBT-specific networking groups in which you can participate. Also, find out whether your alma mater has an LGBT alumni group and connect with them to kickstart your networking efforts.

GETTING THE JOB

You have found the ideal job. Now, you have to get hired. Consider how out you want to be about your gender identity and/or sexual orientation during these next steps. Remember, coming out in your resume, during the interview process or when negotiating benefits is for you alone to decide.

The Resume

As a recent graduate, you probably don't have a great deal of specific work experience, so create a resume focusing on your skills. Highlighting life

experiences such as extra-curricular activities, athletics, leadership positions and volunteer work is a good way to market yourself to potential employers. But to do this you must first decide how – or if – you want to be out on your resume.

LGBT Organizational Involvement

One important decision you will make is whether to include LGBT- related involvement on your resume. Just like coming out in general, there is no right or wrong way to come out (or not) when writing your resume. You will want to take into consideration all the information you have gathered about an employer’s work climate as well as your own comfort with being out.

Options include:

- Specifically list your LGBT organizational involvement and tout the experiences, skills and growth you gained while involved in pro-LGBT activities.
- Generically describe the organization(s) – diversity, civil rights, equality, fairness, etc. – and highlight the skills and experience gained rather than the specific work. Some LGBT organization names are generic as is – others you may be able to list by their acronyms.
- Leave out completely references to LGBT organizations. As mentioned before, this is your journey. Don’t list any information if you aren’t comfortable with it potentially raising questions about your identity.

“There are ways that a person can come out on their resume that are very relevant to the job to which they are applying. For instance, we often see students taking leadership roles on their campus. Highlighting this experience is a great way for job applicants to demonstrate leadership and organization, communication and time management skills.

- Deena Fidas, Director, HRC Workplace Equality Program

Disclosing Before, During or After Job Interviews

There is no “correct” way to approach disclosing your identity to a potential employer, but there are things to consider. If you have already disclosed or transitioned at school, you may not have much choice about if or when to share your identity with a prospective employer. In addition to reference and background checks, employers increasingly use Internet searches to screen candidates.

Employers might ask for your gender and/or sex as part of the application or onboarding process (for EEOC reporting purposes), health insurance or other government records before or shortly after your first day at work – a time when many employees are considered on “probation” or “trial” periods and the employer reserves additional rights to dismiss a new employee.

If you want to disclose your identity with a new or potential employer, consider approaching a qualified human resources representative that is Health Insurance Portability and Accountability Act (HIPAA)-certified. Preface your conversation that you are about to share confidential health information.

What questions are employers legally allowed to ask a potential employee? Under federal law it is illegal to ask questions about marital status. Considering recent EEOC rulings, it may also be illegal under federal law to ask an applicant's gender identity. In states where sexual orientation is covered under non-discrimination laws, it is likely illegal to ask an applicant's sexual orientation. Otherwise, there is no legal barrier to asking an applicant about sexual orientation.

The Interview

Just like your resume, you will need to consider how out you want to be during the interview – both in how you answer questions about yourself and also how you ask questions about the workplace. If you've listed LGBT organizations on your resume, you should be prepared to discuss how that involvement prepared you for the job opening. Interviewers might ask “what kind of an organization is _____?” If you have generically described the group in your resume you'll want to be comfortable in advance with how you'll answer.

If you plan on being out in your interview you could use the information you've learned from researching the company (e.g., non-discrimination policies, existence of an LGBT employee resource group , etc.) to show that you are aware of the company's LGBT positions. You can also ask questions about LGBT issues directly or indirectly – for example, “What benefits do you offer same-sex partners?” or “How do you show your commitment to diversity?”

How should I dress? What you wear should depend on the industry in which you are interviewing. For most workplaces, dressing “professionally” in a business suit is appropriate. In other workplaces slacks, a jacket and tie, a dress or a skirt and blouse is sufficient. Most employers can have gender-based dress codes as long as they are not unduly burdensome to employees of a particular gender. If you are transgender, you should dress in the attire that is consistent with your gender identity. Once you have been hired, keep in mind that there are some laws that protect transgender people from being required to dress in a way that is inconsistent with their gender identity, but it depends on where one lives.

Social Media

Making your best impression online! Many times, it is your online identity that potential employers see right after you apply for a job.

- Make sure you have an appropriate default photo across your social profiles.
- Limit access to personal photos – it may be difficult to hire someone often seen photographed with a red solo cup.
- Leverage your social networks where appropriate. But one-to-one communications can be more effective than simply broadcasting your employment needs.
- Think creatively about how you can ask people for help. Consider asking for advice or informational interviews in addition to asking whether your social network has access to hiring managers.
- Network and engage in twitter streams, Facebook groups and LinkedIn groups within the field you want to work.
- Make sure your profiles complement your professional resume and don't conflict. If you want to be safe, consider de-activating your personal profile if you feel it has questionable content.

BEING OUT AT WORK

We know that as LGBT people we have great power to educate others simply by living our lives openly and honestly. At the same time, however, the reality is that without federal workplace protections, being out at work still has risks.

Once hired, you will likely have decisions to make with regard to being out in the workplace. The decision to be out or not, like all others dealing with sexual orientation and gender identity, is yours alone. If you were out in your interview, you can stay out once you begin the job. If you weren't out in the interview, you could decide to continue that status as an employee. And if you weren't out in the interview, you could choose to be openly LGBT as a newly hired employee. For many, being out at work offers benefits which outweigh the challenges.

Benefits of Being Open at Work

- Reduces stress of hiding or misleading others about your identity
- Breaks down barriers to understanding
- Builds trusting working relationships
- Brings your authentic and whole self to work
- Can make you more productive
- Helps develop closer, more genuine relationships with colleagues, customers and clients
- Builds self-esteem from being known for who you truly are

Employees who are not open at work experience more negative outcomes from their workplace environment that affect productivity, retention and professional relationships. – *Degrees of Equality, 2009*

RESOURCES

HRC Resources

- Professional and Student Associations
- LGBT Professional Recruitment Events
- Publications:
 - Degrees of Equality*
 - Coming Out at Work*
 - Coming Out in the Workplace as Transgender*
 - Corporate Equality Index*

Additional Resources

- Transgender Law Center
- Pride at Work
- Out for Work
- Out and Equal
- National Gay & Lesbian Chamber of Commerce
- Federal GLOBE

ABOUT US

The Human Rights Campaign Foundation believes that all Americans should have the opportunity to care for their families, earn a living, serve their country and live open, honest and safe lives at home, at work and in their community. Through pioneering research, advocacy and education, the HRC Foundation pursues practices and policies that support and protect lesbian, gay, bisexual and transgender individuals and their families in education, healthcare, corporate, public and private organizations across the country. For more information, visit www.hrc.org.

If you would like to get involved with HRC's work by becoming a member, we invite you to visit www.hrc.org/membership and add your voice to our more than 1.75 million members and supporters.

For as little as \$35, you will receive HRC's quarterly magazine, *Equality*; invitations to the latest HRC events; discounts from corporate sponsors as well as updates on how you can get more involved in your community. Student membership rates also available.

Questions about HRC membership? Please contact our Member Services Department at 1-800-727-4723 or membership@hrc.org.



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