

## Promoting Diversity and Making Waves: Implementing ERGs that Drive Organizational Change

2010 Out & Equal Annual Workplace Summit

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- McDermott Will & Emery LLP
  - Premier international law firm with a diversified business practice that has been providing legal services for 75 years
  - More than 1,000 lawyers in offices in Boston, Brussels, Chicago, Düsseldorf, Houston, London, Los Angeles, Miami, Milan, Munich, New York, Orange County, Rome, San Diego, Silicon Valley and Washington DC, as well as a strategic partnership with offices in Shanghai
  - The Firm has hired and promoted women to the partnership ranks since 1957 and was the second major US law firm to elect a woman to partnership
  - The Firm has a deeply rooted commitment to diversity, inclusion and equality

## Case Study of Our LGBT ERG

- 2005
  - Two diversity committees: Racial and Ethnic Diversity and Gender Diversity
  - The need for a third committee devoted specifically to LGBT diversity was raised at a diversity presentation for summer associates who inquired about the Firm's culture and policies with respect to LGBT diversity
- 2006
  - Lisa Linsky, a partner in the New York office, was selected to head the new LGBT committee
  - LGBT committee began as a sub-committee of the Gender Diversity Committee, but became its own standing diversity committee with Firm-wide reach within the first year
  - LGBT committee instituted an annual in-house survey in which LGBT members of the Firm are asked to self-identify
  - Received 100% rating on the Human Rights Campaign Foundation Corporate Equality Index each year since 2006

## Case Study of Our LGBT ERG (cont.)

- 2008
  - Implemented COBRA-equivalent coverage for same-sex spouses and partners
  - Added gender expression and identity to the Firm’s equal employment opportunity policy
- 2009
  - Firm management approved the adoption of gender transition guidelines which were drafted by LGBT committee members
  - Received “Safe Haven Award” from Immigration Equality in recognition of our overall excellence in representing LGBT asylum-seekers
- 2010
  - Revised affidavit and tax certification for enrolling same-sex spouses and partners for benefits
  - Named one of top three LGBT-friendly firms in Illinois by Equality Illinois

## Top 10 Lessons Learned

- Lesson #1: Get Your Company's Support
- Lesson #2: Take Stock
- Lesson #3: Be Active
- Lesson #4: Advocate for Change
- Lesson #5: Advocate for More Change!
- Lesson #6: Be Persistent
- Lesson #7: You Can't Please Everyone
- Lesson #8: Promote your Company as LGBT-Friendly and Inclusive
- Lesson #9: Engage with the LGBT Community
- Lesson #10: Celebrate Your Successes

## Lesson #1: Get Your Company's Support

- Your company's recognition and support of the ERG is critical to its success
  - Identify the right people within the company to talk to about setting up an LGBT ERG as a resource for employees
  - LGBT individuals and allies in leadership or management positions are critical to getting your ERG started
- Know the right questions to ask
  - Will the company recognize an LGBT ERG?
  - Does the company have existing policies regarding setting up an ERG?
  - Will the company provide a budget for the ERG?
- If your company does not have a formal process in place for setting up an ERG, create a proposal for leadership to consider that communicates benefits both for employees and the company
- Ask an individual in your company's leadership or management to participate in the ERG and facilitate communication between the ERG and management
- Make use of straight allies

## Lesson #2: Take Stock

- Implement an in-house survey
  - Allows LGBT individuals to self-identify if they choose or to respond anonymously
  - Allows the ERG to gather data about LGBT individuals at the company
  - Allows the company to report statistics about LGBT employees to organizations or potential clients requesting information on the company's commitment to diversity
- Questions to ask
  - What is your sexual orientation and gender identity?
  - Do you hold a leadership position in an LGBT organization?
  - Would you be willing to speak with LGBT candidates for employment?
  - Would you like to work on LGBT *pro bono* or volunteer matters?
  - Would you like to join the ERG or be considered for a leadership position?
  - Do you have ideas for initiatives or other projects that the ERG may undertake?
  - What is your perception of diversity/tolerance at the company?
  - Have you ever felt discriminated against at work?

## Lesson #3: Be Active

- Getting started
  - Organize LGBT employees to create a social support network
  - Create a confidential e-mail distribution list to communicate with members and allies
  - Be a resource in recruiting LGBT employees
  - Identify individuals within the ERG who can be a resource to new employees
  - Recognize the achievements of LGBT employees within the company and publicize local community events
- Offer diversity training and related programs
  - Focus on the company's commitment to promoting diversity with education about the distinctions between sexual orientation and gender expression and identity
  - Inform employees about the company's inclusive EEO policy and diversity statements
  - Include sexual orientation and gender expression and identity in the company's anti-harassment policies and training sessions

## Lesson #4: Advocate for Change

- Update the company's equal employment opportunity (EEO) policy
  - Advocate for sexual orientation and gender expression and identity to be included as protected categories
  - Our Firm's EEO policy already included sexual orientation as a protected classification when our LGBT committee formed, but did not include gender identity or expression
  - A workplace based on inclusion and equality must extend protections to gender non-conforming employees, regardless of sexual orientation
  - Our LGBT committee worked with Firm management to discuss these changes, and Firm management agreed to revise the EEO policy to be more inclusive
  - Keep in mind that advocating for more inclusive EEO policies will likely require you to educate your company's management on the distinctions between sexual orientation and gender expression and identity

## Lesson #4: Advocate for Change (cont.)

- Update the company's diversity statement
  - Advocate for sexual orientation and gender expression and identity to be included in the diversity statements posted on your company's website and in marketing brochures
  - Ensure that all communications from your company regarding its commitment to LGBT diversity are consistent
  - Information to be included in strong diversity statements:
    - Overview of your company's commitment to diversity
    - Contact information for members of your ERG's leadership committee
    - Employees' diversity-related leadership positions both within the company and in community organizations
    - The company's diversity awards, recognitions and statistics
  - Our Firm has an entire section of our website and printed marketing materials devoted to diversity, which are used both as marketing for clients and to recruit new employees

## Lesson #4: Advocate for Change (cont.)

- Update new employee data collection and other human resource forms
  - Forms should communicate the company’s commitment to inclusion and equality
  - Data collection forms should allow new employees to indicate their sexual orientation and gender identity if they choose to do so
  - Forms requesting information about marital status should include “same-sex spouse” and “domestic partner” as options, along with spaces to allow employees to indicate the names of their spouses, partners and children
- Ensure that same-sex spouses and partners are included on any invitations to company events to which opposite-sex spouses are invited

## Lesson #5: Advocate for More Change!

- Medical, dental and vision benefits
  - Offer spousal-equivalent medical, dental, vision benefits for same-sex spouses and partners of employees
  - Use a simplified affidavit for enrolling same-sex spouses and partners for company benefits that requests the same information required to enroll an opposite-sex spouse
  - Offer continued healthcare coverage to same-sex spouses and partners upon termination of the LGBT employees' coverage under the company's health plan, similar to COBRA-continuation coverage provided to spouses of heterosexual employees
- 401(k) and pension plan benefits
  - Include same-sex spouses and partners in 401(k) plan hardship distribution options
  - Identify same-sex spouses and partners as a default beneficiary under 401(k) plans in case the employee fails to name a beneficiary
  - Include survivor annuities in pension plans that provide retirement benefits to same-sex spouses and partners in the event that the employee dies first

## Lesson #5: Advocate for More Change! (cont.)

- Leave or paid time off policies
  - Offer leave similar to that provided under the Family Medical Leave Act to allow an employee to take paid time off from work to care for an ill same-sex spouse or partner or the child of the employee's same-sex spouse or partner
  - Offer bereavement and adoption leave for LGBT employees
- Include same-sex spouses and partners in other benefits such as:
  - Supplemental life insurance
  - Employee assistance programs
  - Relocation/travel assistance benefits
  - Adoption assistance
  - Employee discounts

## Lesson #5: Advocate for More Change! (cont.)

- Update dress codes and provide gender transition guidelines
  - Ensure that any dress codes for your company are gender neutral
  - Advocate for your company to implement gender transition guidelines to address issues that may arise during the gender transitioning process for a transgender employee
  - Gender transition guidelines delineate workplace policies and procedures to ensure the maximum amount of support for a sensitivity toward transitioning individuals
  - Guidelines should include recommendations for employees, supervisors, and human resource personnel on how to provide a welcoming and supporting environment for employees undergoing gender transitions
  - Many samples are publicly available from the Human Rights Campaign Foundation

## Lesson #6: Be Persistent

- Anticipate and prepare for resistance to pro-LGBT change
  - Identify the right people to ask
  - Always communicate advocacy for change as positive for the company
  - Identify multiple ways to communicate why change on a particular issue is important
  - Identify multiple people to ask about the same issue
  - Focus and advocate for change on one or two issues at a time
  - Recognize that sometimes symbolic gestures are just as important as key changes in policies or practices

## Lesson #7: You Can't Please Everyone

- Establish a leadership committee to make decisions regarding change that the ERG will advocate for within the company
- Realize that not everyone will agree on which change is best for the company, but establish support for the leaders of the ERG to make decisions
  - Google, Inc. gross-up example
- Use surveys to assess the opinions of the ERG membership or the company's employees with respect to individual issues
- Solicit opinions, but do not get weighed down by all of them

## Lesson #8: Promote your Company as LGBT-Friendly and Inclusive

- Human Rights Campaign Foundation Corporate Equality Index
  - Nationally recognized ranking of major employers throughout the United States on issues involving workplace equality for LGBT individuals
  - Evaluates employers on a series of evolving criteria that demonstrate the employer's commitment to equal treatment of all people regardless of their sexual orientation and gender identity or expression
  - Provides employers with a roadmap for establishing and maintaining inclusive workplaces for LGBT employees
  - In 2010, 305 businesses achieved 100% scores on the CEI, collectively representing over 9 million full-time U.S. workers
  - High scoring businesses use the HRC logo to promote themselves as LGBT-friendly organizations
  - Prospective clients and employees know what achieving a 100% score on the CEI means

## Lesson #9: Engage with LGBT Community

- Be active within LGBT professional and community organizations
  - Attend events
  - Host or sponsor events
  - Do not just sponsor events – show up!
  - Be vocal about the pro-LGBT changes that the company is making
- Advocate for the company to provide greater sponsorship and financial support for LGBT charitable and professional organizations
- Advocate for the company to market toward the LGBT community as consumers
- Be a resource to other companies or organizations considering an ERG for LGBT employees

## Lesson #10: Celebrate Your Successes

- Diversity announcements should be circulated to employees throughout the company
  - Awards or recognition that the company has received
  - Awards or recognition that specific employees have received
  - Announcement of conferences or other local events at which employees are speaking
  - Appointment of employees to leadership positions of LGBT community or professional organizations
- The more you publicize the diversity efforts of the company and its employees, the more people (even the detractors) will see the culture change

## Your Questions

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