



ATTORNEY SEARCH

By Laura Rusche
BCG Attorney Search

The Importance of Attracting and Retaining Gay Attorneys

Historically, law firms have been conservative environments, and as a result, gay attorneys (which includes gay, lesbian, bisexual, and transgendered attorneys) have largely kept their sexual orientations to themselves out of fear of being ostracized, rejected, and discriminated against. Many of us have witnessed or heard of stories in which a very highly regarded attorney's sexual orientation was somehow disclosed (or leaked) to his or her firm, resulting in negative consequences for the attorney.

Some of those consequences may be subtle – whispers in the hallways, feeling distance from those one once felt close to. Other consequences can be more professionally damaging, such as no longer working with the top attorneys in the firm (if those attorneys are homophobic) or finding that the quality of one's work plummets after the disclosure is made.

While law firms have traditionally been unfriendly to gay attorneys and staff, changing a firm's atmosphere can be done – and many firms are doing so with great success. While it may not be easy, as discussed in detail below, it is vitally important for firms that want to remain competitive in the marketplace, and there are some concrete steps that firms can take to help create a comfortable working atmosphere for gay attorneys.

Why Firms Should Care about Attracting Gay Attorneys

There is a very simple reason that firms should care about attracting and retaining gay attorneys: to help recruitment and retention of staff. Attrition rates in law firms, especially at the associate level, are at an all-time high, and firms simply cannot afford to lose up to 10% (the estimated percentage of the general population that is gay) of their attorneys because those attorneys do not feel comfortable at their firms. Gay attorneys have always made significant contributions to the law, regardless of whether their peers were aware of their sexual orientation, and in today's incredibly competitive recruiting environment for the top lawyers, firms can only benefit from pulling from a larger pool of attorneys.

Diversity also conveys a loud message that the culture of the law firm is one of inclusion, and as a consequence of this message, the firm is bound to attract the best attorneys from all walks of life. With the competition between firms so high, firms that create an atmosphere where the top gay attorneys as well as their straight counterparts are comfortable practicing law will have an advantage over those that do not place emphasis on this important issue.

Moreover, an employer's acceptance of gay and lesbian attorneys is very important to today's law students and prospective lateral attorneys. In fact, law students and potential laterals often ask questions about a firm's policy toward diversity, including the policies and benefits provided to gay attorneys, even if the prospective employee is not gay. Diversifying the firm's attorneys and providing quality benefits to all attorneys is

The Importance of Attracting and Retaining Gay Attorneys

perceived as the “right” thing to do, and many attorneys are attracted to firms that hire diverse pools of candidates and provide open environments of teamwork and equal opportunity.

Firms are also feeling increased pressure from their clients to increase diversity and provide an atmosphere of inclusion for gay attorneys. Clients often ask for the firm statistics regarding gay and lesbian attorneys, and some gay business owners are more comfortable working with gay attorneys, or at least firms that support gay attorneys.

Below are several guidelines for creating a firm environment that welcomes gay attorneys:

1. Create a Firm Environment Where Gay Attorneys Feel Comfortable Being Themselves.

When attorneys are uncomfortable in their professional environment, they are more likely to maintain a level of secrecy between themselves and others, which can foster a negative environment filled with gossip and speculation. If a firm creates an environment where gay attorneys are comfortable disclosing their orientation, they will be more likely to remain at the law firm long-term and attract additional gay attorneys to the firm.

There are a number of ways to create a comfortable environment for gay attorneys. First and foremost, the firm must demand a respectful workplace environment. This means creating and enforcing a no-tolerance policy for discriminating comments or practices, which should include sanctions for those who fail to comply. Additionally, firms should use language of inclusion to create a comfortable environment, including gender-neutral terms such as “significant other” or “partner.” Finally, firms should offer diversity and anti-discrimination training which includes sensitivity training toward gay attorneys and staff.

2. Report Statistics.

Encourage the firm’s attorneys to disclose their status, and report the firm statistics on the annual National Association for Law Placement (NALP) form. These statistics are published on an annual basis in the NALP Directory, which is available for job-hunting law students and laterals.

The NALP Directory is often one of the first places that law students and laterals look for firm statistics. Regardless of their own race or sexual orientation, many of these potential employees are interested in the levels of diversity at firms because, as discussed above, diversity signals an environment of inclusion and openness, something that is very important to young attorneys.

3. Create a Firm Website That Highlights the Firm’s Efforts to Recruit Diverse Attorneys, Especially Gay Attorneys.

Many law firms that are committed to recruiting gay attorneys have dedicated specific sections of their websites to highlighting their firms’ recruiting efforts and their support of gay organizations, including lists of the specific organizations they sponsor and/or participate in. Other firms provide lists of questions that gay attorneys should consider when deciding where to work, focusing on such factors as whether domestic benefits are offered and whether the firm supports and demands an open and affirming environment for its attorneys and employees.

4. Provide Benefits for Domestic Partners.

Take a look at the benefit plan for the firm’s attorneys and employees, and whenever the word “spouse” is mentioned, “domestic partner” should apply as well. This should include offering health, dental, and other insurance benefits, as well as bereavement or caretaking leave, access to employee assistance programs, survivor benefits to employees’ domestic partners, and pension benefits.

Making benefits available for domestic partnerships sends a very strong message to gay attorneys and law students that the firm is committed (especially financially) to the advancement of gay attorneys in law firms and that all attorneys, regardless of sexual orientation, are treated equally.

PAGE: 2

5. Create an Internal Committee to Develop the Firm's Diversity Initiatives.

It is vital for law firms to develop internal committees composed of firm representatives focused exclusively on implementing diversity initiatives. Members of the committee should be representatives of the firm, including diverse attorneys and members of the executive, management, and associate committees. The focus of the group should be on diversity outreach, recruitment, and retention of diverse attorneys.

As part of these efforts, this group may want to participate in gay legal professional associations, such as the [National Lesbian and Gay Law Association](#). Not only will these efforts attract and maintain diverse candidates, but they will also send a message to the firm's attorneys that diversity is an important firm issue.

6. During the Recruiting Process, Show Potential Hires That the Firm Is Accepting of All Types of Attorneys.

One way firms are attracting gay attorneys is by making gay candidates feel more comfortable during the recruiting process and letting them know that there are other gay attorneys at the firm. This can be accomplished by bringing diverse attorneys together with recruits to get to know the potential hires and to communicate to them that the firm is committed to attracting and retaining gay attorneys.

Many gay law students still shy away from midsize and large law firms for fear of being mistreated or forced to remain "in the closet." Firms that permit recruits to meet their diverse attorneys, get to know the firm, and see firsthand that the firm is sensitive to different types of people are going to be much more successful in recruiting and retaining gay attorneys. One way to accomplish this is by participating in job fairs designed specifically for gay attorneys. Firms can also participate in pro bono programs focused on providing legal services to the gay community.

7. Create an Internal Mentoring Program for the Firm's Attorneys.

Internal mentoring programs help retain and support associates as they develop their careers in law firms. Many firms have formal mentoring programs in which associates are asked to fill out detailed questionnaires about their concerns, practice area foci, and interests, and based on the responses, the associates are paired with partners with similar interests and concerns. This can provide a young gay associate the opportunity to be paired with a more experienced gay attorney who may have dealt with many of the issues and concerns on the mind of the associate. Successful mentoring relationships help associates integrate into the firm and assist them with their professional development.

8. Publish Newsletters.

Some of the larger firms with ample resources have begun publishing newsletters on a regular or semi-regular basis that highlight legal issues affecting the gay community and may even identify and/or highlight the firm's openly gay attorneys.

The Good News

The good news with respect to all of this is that many firms are succeeding in attracting and retaining more talented gay attorneys and creating environments in which these attorneys are comfortable "coming out."

According to NALP, the number of openly gay, lesbian, bisexual, and transgendered lawyers increased by more than 50% from 2002 to 2006. Openly gay attorneys now represent about 1.8% of associates and 1.1% of partners in law firms. Moreover, more than 20% of NALP member firms are providing gay and lesbian attorneys the opportunity to self-identify, and in some of the largest cities in the nation, that statistic jumps to almost 40% of NALP member firms.

For example, according to statistics collected by NALP, in 1996 (the first year in which firms were given the opportunity to report their numbers of openly gay attorneys), only 11 out of the 25 largest New York-based law firms reported having any gay attorneys, while in 2003, 24 out of the same 25 firms reported they employed openly gay attorneys. (The 25th firm did not list itself in the NALP Directory that year.)

While it is not easy to change the culture and environment of a law firm, many law firms are showing that it can be done successfully, and those firms are reaping the benefits of their work. They are attracting and retaining the best of the best, regardless of attorneys' sexual orientations.