Nondiscrimination Policy – Funders for LGBT Issues

Best Practices for Including LGBTQ People in Your Nondiscrimination Policy

Philanthropy can be more effective when foundations reflect the full diversity of the communities we hope to serve and impact. Lesbian, gay, bisexual, transgender, and queer (LGBTQ) people are a crucial part of the tapestry of our communities, and a growing number of foundations are seeking to assure that their institutions are welcoming and inclusive of LGBTQ people.

An important step toward inclusiveness is explicitly prohibiting discrimination on the basis of sexual orientation and gender identity and expression. This brief guide is intended to help your institution implement a nondiscrimination and equal opportunity employment policy that is inclusive of sexual orientation and gender identity and expression.

Why Should Funders Have a Nondiscrimination Policy That Includes Sexual Orientation and Gender Identity and Expression?

Having an explicit policy prohibiting discrimination based on sexual orientation and gender identity and expression illustrates your commitment to fairness and equal opportunity. Communicating your values to your grantees, partners, and current and potential employees ensures that you commitment is clear internally and externally. Further, including sexual orientation and gender identity and expression signals to LGBTQ people and allies that your organization is inclusive, and can help strengthen your recruitment and retention. Finally, it's the right thing to do!

Is This Needed? Isn't It Illegal to Discriminate Against LGBTQ People?

Unfortunately, LGBTQ people are still not explicitly protected from discrimination at the federal level and in 30 states. That means that in the majority of states, people can be fired, not hired or otherwise discriminated against just for being lesbian, gay, bisexual, or transgender. The Movement Advancement Project provides this useful map of nondiscrimination protections at the state level. While there have been significant positive rulings by the Equal Employment Opportunity Commission and some state and federal courts, in the absence of clear law, LGBTQ people are still vulnerable to discrimination in the workplace.

Even if you are based in a state where sexual orientation and gender identity and expression are protected, we still recommend having an inclusive nondiscrimination policy, because, as noted above, it clarifies and communicates your commitment to inclusion for all stakeholders, both internal and external.

Can You Provide Sample Language For An Inclusive Equal Employment Opportunity Statement or Statement on Nondiscrimination?

Yes! Here is a sample text:

"The [Institution Name] is committed to diversity and to equal opportunity employment. [Institution Name] does not discriminate on the basis of race, creed, color, ethnicity, national origin, religion, sex, sexual orientation, gender identity and expression, age, height, weight, physical or mental ability (including HIV status), veteran status, military obligations, or marital status. This policy applies to hiring, internal promotions, training, opportunities for advancement, and terminations and applies to all [Institution Name] employees, volunteers, members, clients, and contractors."

Is It Important to Name Both Sexual Orientation and Gender Identity and Expression?

Sexual orientation and gender identity are two distinct categories. Sexual orientation is defined by one's emotional, romantic, or sexual feelings toward other people. Gender identity is defined by one's personally held sense of being male, female, a combination of both, or neither. Gender expression refers to things like appearance, clothing, mannerisms and other ways that a person expresses their gender identity. Transgender people have a gender identity that does not necessarily match the sex that they were assigned at birth. Some transgender people identify as gay, lesbian, or bisexual, but others identify as straight or heterosexual. Some people have a gender expression that does not conform to traditional societal expectations, regardless of their sexual orientation or gender identity. A number of LGBTQ organizations offer helpful guides to terms related to sexual orientation and gender identity. Examples include PFLAG's glossary of terms and "An Ally's Guide to Terminology" from GLAAD and the Movement Advancement Project.

Transgender people face some of the highest levels of discrimination in the LGBTQ community. In the largest survey of transgender people in the U.S. conducted to date, 27 percent of those in the workforce reported being fired, denied a promotion, or not being hired because of their gender identity and expression.

We recommend explicitly naming both sexual orientation and gender identity and expression in your policy, to assure that all LGBTQ people are protected, including transgender people. Including sexual orientation and gender identity and expression also signals to potential LGBTQ employees that your institution is aware and welcoming of the full diversity of the LGBTQ community.

Is There Any Language We Should Be Careful to Avoid in Our Policy?

We recommend that your policy does not make reference to federal or state law. Many well-intentioned nondiscrimination policies are undermined by including language such as "in accordance with state and federal law," "to the extent prohibited by law," or "we prohibit unlawful discrimination." This type of reliance on laws makes your policy weaker, since discrimination against LGBTQ people still is not explicitly illegal in many states.

Should We Ask Our Grantees to Implement Inclusive Nondiscrimination Policies, Too?

Funders have significant influence on their grantee partners and potential applicants, and one positive way to leverage that influence is by encouraging grantees to be inclusive. A number of our members require their grantees to have nondiscrimination policies that are inclusive of LGBTQ people, people of color, people with disabilities, religious minorities, and women. Several of these members have reported that this requirement has catalyzed internal conversations at applicant organizations, often leading to the passage of a formal nondiscrimination policy.

If requiring a nondiscrimination policy of grantees doesn't seem right for your institution, another option is to ask applicants if they have a policy as part of the application process. Simply asking the question can help catalyze conversations and encourage your nonprofit partners to explore how they can be more inclusive.

I Feel It's Important To Have an Inclusive Nondiscrimination Policy, But Other Staff or Board Members Have Concerns. What Should I Do?

If your institution is exploring a nondiscrimination policy that includes sexual orientation and gender identity for the first time, it is quite normal for questions or concerns to arise from your colleagues on the staff or the board. We recommend introducing the topic at a staff meeting or board meeting and giving people the opportunity to ask questions. It may be helpful to share resources with your colleagues, such as this issue guide, or excerpts of the research referenced above. Give people time to ask questions before you implement it. Having a process provides an opportunity for mutual learning and sharing of perspectives and ensures that your colleagues are on board with the new policy.

Finally, feel free to reach out to the staff of Funders for LGBTQ Issues. We've worked with a number of funders as they've implemented nondiscrimination policies that include sexual orientation and gender identity, and we're happy to help!