

Employment Policies for Gay and Lesbian Attorneys

BASF REPORT ON

Published by

The Committee on Sexual Orientation Issues
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PREFACE

The Bar Association of San Francisco is pleased to present this Report on Employment Policies for Gay and Lesbian Attorneys. Overall, our sponsor law firms and corporate legal departments have espoused a commitment to equal opportunity for gay and lesbian attorneys. We applaud the numerous sponsors who have adopted the Recommendations promulgated by the Bar Association in 1991 to eliminate sexual orientation discrimination.

This effort is a continuation of our Bar's commitment to encourage diversity in our profession, as shown by efforts such as our Minority Employment Goal and Timetables, and our model policies on sexual harassment in employment. However, this Report involves the more subtle—and therefore, sometimes more difficult—issue of addressing discrimination against gay and lesbian attorneys who are neither necessarily self-identified, nor otherwise known to other members of their firm.

The challenge presented by this report is to create an open and inclusive environment all day, every day—whether or not we know that a minority, woman, gay or lesbian or disabled attorney will be present at any given time. Through these efforts, we will all help in creating and maintaining a professional environment of which we can be proud.

We hope that our legal community will obtain some useful insights from this Report on our current status regarding the employment of gay and lesbian attorneys. Most of all, we hope that this Report will encourage legal employers to take more proactive steps in creating an environment conducive to diversity and equal opportunity for lesbian and gay attorneys.



Mark Schickman
PRESIDENT
BAR ASSOCIATION OF SAN FRANCISCO

EXECUTIVE SUMMARY

The prevailing ethic among legal employers in San Francisco is to provide full equal employment opportunity to lesbian and gay attorneys. Indeed, every firm completing this Survey espoused a commitment “to equal employment opportunity . . . for gay and lesbian attorneys.” Despite this ethic, true equality has not yet been achieved. Lesbian and gay attorneys will be denied equal employment opportunity until employers provide their lesbian and gay attorneys with health benefits for their domestic partners as routinely as they extend social invitations to “guests” rather than “spouses.”

In 1991, the Bar Association of San Francisco (the “Bar Association” or “BASF”) adopted and sent to its sponsor firms¹ a manual titled *Creating an Environment Conducive to Diversity: A Guide for Legal Employers on Eliminating Sexual Orientation Discrimination*, which included twenty-three “Recommended Steps for Legal Employers to Achieve Equal Employment Opportunity for Lesbian and Gay Attorneys and Law Students” (the “Recommendations”). The “1995 Bar Association of San Francisco Survey of Employment Policies for Gay and Lesbian Attorneys” (the “Survey”) investigated to what extent employers of attorneys in San Francisco have implemented the Bar Association’s twenty-three Recommendations.

The Bar Association’s Committee on Sexual Orientation Issues drafted the Survey, which consists of twenty-eight “yes/no” questions designed to ascertain whether the Association’s sponsors have put into practice what each Recommendation advises. Of the 339 Surveys mailed to Bar Association sponsor firms, sixty-four were completed and returned, representing a response rate of 19%. It is not known how non-responding firms would have completed the Survey, nor how non-sponsor firms would have responded. Nevertheless, because of the high proportion of San Francisco legal employers who are Bar Association sponsors, sponsor firms are likely to be representative of the prevailing ethic among legal employers in San Francisco. Although it is possible that the firms completing this Survey are more likely or less likely than other firms to have adopted the Recommendations, the Recommendations most popular among responding firms are likely to be most popular among San Francisco legal employers generally.

Approximately half of the Recommendations address equal employment opportunity by addressing matters of equal treatment directly. The other Recommendations address equal employment opportunity by recommending policies and procedures that foster the less tangible goal of creating an environment conducive to diversity. Compliance with Recommendations addressing equal treatment directly was generally higher than compliance with Recommendations aimed at fostering diversity.

The Survey results demonstrate a very prevalent commitment to the goal of equal treatment among responding firms. The extent to which this commitment translates into specific policies appears to be governed by the ease with which the particular policy can be implemented. For example, all responding firms endorsed a commitment to equal employment opportunity for gay and lesbian attorneys, but over a third of them had not put this policy in writing. Similarly, all respondents that compile directories naming employees’ spouses reported that they would list lesbian and gay attorneys’ domestic partners, and almost all that extend social invitations to attorneys’ spouses reported that they address the invitations to “guests” rather than “spouses.” But most firms that provide health benefits to employees’ spouses do not yet provide their lesbian and gay attorneys with health benefits for their domestic partners. Because health benefits are a key component of most employees compensation packages, employers that fail to provide domestic partner benefits deny equal compensation to their lesbian and gay employees.

¹ A Bar Association sponsor is a law firm or corporate legal department that pays Bar Association dues for all of its attorneys. Law firms and corporate legal departments are collectively referred to as “firms” in this Report. The Bar Association currently has approximately 400 sponsor firms.

Many of the Recommendations that directly address equal treatment concern whether the households of lesbian and gay employees are treated equivalently to the households of heterosexual employees. In addition to extending social invitations to lesbian and gay domestic partners, most firms reported that they are willing to extend leave benefits to their attorneys for the purposes of meeting family needs concerning domestic partners and children, if the firm provided such benefits at all. Not all firms, however, provide these types of benefits even to married attorneys with children.

The other half of the Recommendations are based on the principle that equal opportunity is achieved in part through the creation of an environment conducive to diversity. Implementation of this principle begins with recruitment and hiring. The Bar Association recommends that lesbian and gay student groups be targeted for recruitment and that a lesbian or gay man serve on the hiring committee. Most firms that engage in these recruitment and hiring activities reported that they comply with these Recommendations, but it is only the larger firms that are likely to engage in such activities at all.²

Diversity is promoted also by training all employees on sexual orientation issues, with additional training provided for interviewers. The Recommendations addressing training had among the lowest compliance rates of the Survey, with only a minority of firms saying they provide such training.³

Mentoring programs in general promote equal opportunity because they promote interaction between seasoned employees and novices, which often is not as readily available to minority novices as it is to members of the majority group(s).⁴ Fewer than half of the firms of all sizes that employ associates reported that they provide all associates with mentors. Firms were much more likely to say that they “foster opportunities for lesbian and gay attorneys to support each other in the work environment,” but much less likely to report that they “identify a lesbian- and/or gay-sensitive contact for attorney applicants.”

Another way to promote diversity is to ensure that firm newsletters, welcome packets, firm resumes, legal-issue lunches, and the like include information of particular interest to lesbians and gay men. Most of the firms for which these Recommendations are applicable reported compliance with most of them. However, fewer than a third of all the responding firms found these Recommendations to be applicable, because smaller firms were much less likely than larger firms to engage in these activities.

Some firms commented that many of these diversity-oriented Recommendations are unnecessary because the firms employ only liberal-minded, non-discriminatory people. Even if they have accurately assessed the intent of their personnel, however, it cannot be determined from these Survey results alone whether that is enough. Further, the Survey responses represent only what firms *report* that they do, not how successful they have been in creating a non-discriminatory environment for lesbian and gay attorneys from the perspective of the attorneys themselves. What the Survey does show is a prevailing ethic among employers of attorneys in San Francisco for equal opportunity regardless of sexual orientation. The Survey also shows where the challenges to make this a reality remain, such as the need for more firms to provide health benefits to the domestic partners of lesbian and gay attorneys in the absence of their legal right to marry.

² For purposes of this Report “smaller firms” are defined as employing from one to fifteen attorneys; “larger firms” are those employing sixteen or more attorneys

³ The “compliance rate” indicates the percentage of firms that have adopted the Recommendation in relation to the number of firms for which the Recommendation is applicable to their size and practice. The compliance rate is computed by dividing the number of firms that answered “Yes” by the number of firms that indicated the Recommendation was applicable to their practice (which includes responses of “Yes” and “No,” but excludes responses of “Not Applicable” and “Not Known”)

⁴ The need for mentors to create an environment conducive to diversify also was recently addressed in the Association's *Goals '95 Report: Goals and Timetables for Minority Hiring and Advancement*.

REASON FOR THE SURVEY

The Bar Association of San Francisco has been at the forefront of programs to ensure equal employment opportunities for gay and lesbian lawyers. In 1986, the Bar Association established a Committee on Equality, with a mandate to make recommendations to the Bar Association's Board of Directors on how to eliminate barriers to the advancement of minorities, women, lesbians and gay men, and attorneys with physical or mental disabilities in the San Francisco legal community. The Committee on Sexual Orientation Issues was established in 1990 to address the specific needs of gay and lesbian attorneys.⁵ After exhaustive research, the Committee on Sexual Orientation Issues (the "Committee") drafted *Creating an Environment Conducive to Diversity: A Guide for Legal Employers on Eliminating Sexual Orientation Discrimination*, which was adopted by the Bar Association's Board of Directors in 1991. *The Guide* was disseminated to the Bar Association's sponsor law firms and corporate legal departments. It included twenty-three specific "Recommended Steps for Legal Employers to Achieve Equal Employment Opportunity for Lesbian and Gay Attorneys."

In the ensuing years, the Bar Association and the Committee have informally monitored the progress of sponsor law firms with respect to the Recommendations. For example, in June 1992, the Bar Association distributed to the managing partners, chief counsel, and recruitment administrators of sponsor law firms and corporate legal departments a Survey of Implementation of Guide for Legal Employers on Eliminating Sexual Orientation Discrimination. Of the 350 questionnaires distributed, only twenty responses were returned. Given the low response rate, no detailed report was prepared.

In an effort to more fully monitor the status of gay and lesbian attorneys in the San Francisco legal community, the Committee endeavored once again, in 1995, to survey sponsor law firms and corporate legal department with respect to their implementation of the Bar Association's Recommendations. This Report attempts to measure and report how successfully the Recommendations have been adopted by San Francisco legal employers as steps toward the achievement of equal opportunity for lesbian and gay attorneys.

⁵ The Committee on Sexual Orientation Issues was established as a subcommittee of the Equality Committee. Until 1995, it was known as the Committee on Gay and Lesbian Issues.

SURVEY METHOD AND RESULTS

SURVEY DESIGN

The goal of the Survey was to assess how widely the Bar Association of San Francisco's Recommendations on gay and lesbian employment have been adopted. In order to do this, the Survey was mailed to the Bar Association's sponsoring law firms and corporate legal departments.

Rather than require the Survey respondent to read through the full text of the Bar Association's twenty-three Recommendations before answering the Survey questions, it was thought that the response rate would be higher if the respondent were required to answer only single-sentence, "yes/no" questions. An effort was made to construct a single, simple, and direct question for each Recommendation that asks whether the responding firm had adopted the Recommendation's core principle. If the Recommendation recommends that the firm do X, then the question asks whether the firm does X. The Recommendation may offer suggestions as to how the firm might accomplish X, but the question only refers to X directly.

For example, Recommendation 2 states the following:

Employers should articulate, in all appropriate publications, policies, and procedures, the organization's commitment to and policy of equal opportunity in employment, which should specifically prohibit discrimination, including harassment, on the basis of sexual orientation and marital status. The policy should include a statement that AIDS and HIV-related conditions will be treated in the same manner as any other disability protected by law.

Because the core principle in Recommendation 2 is a written policy prohibiting discrimination, the Survey question corresponding to this Recommendation was: "Question 2. Does your firm or corporation have a written policy prohibiting employment discrimination against attorneys on the basis of sexual orientation?"

For each of three Recommendations, more than one question was required, because the Recommendation includes more than one core principle. Specifically, Recommendation 3 concerns training of employees on sexual orientation issues. Two questions related to this Recommendation: Question 3a asks whether the firm provides such training to attorneys, and Question 3b asks whether the firm provides such training to non-attorney staff members. Recommendation 19 concerns parenting leave: Question 19a asks about full leave, and Question 19b asks about part-time work opportunities. Finally, Recommendation 21 concerns care-taking and bereavement leave. Four questions relate to this Recommendation, reflecting the four combinations of care-taking and bereavement leave on the one hand, and domestic partners and children as the reasons for the leave on the other hand.

In order to make the correspondence between each question and its associated Recommendation apparent, the number of the question incorporates the number of the Recommendation. For example, Question 2 corresponds to Recommendation 2 and Questions 3a and 3b correspond to Recommendation 3. There are twenty-eight questions relating to the twenty-three Recommendations.

Respondents were asked to respond either "Yes" or "No" to each question. For some questions, an additional response alternative meaning "not applicable" is included. The Survey questions do not permit the respondent merely to check "not applicable," because that would have provided no information as to why the questions would not be applicable. Instead, where appropriate, the question includes as a response alternative a single sentence stating what was believed to be the most likely reason for the question to be

not applicable. For example, Question 4 asks: "Does your firm or corporation have at least one lesbian or gay attorney sit on the hiring committee?" Response alternatives are "Yes," "No," and "Our firm/corporation does not have a hiring committee."

In March 1995, the Survey was mailed to 339 law firms and corporate legal departments that are Association sponsors. Accompanying the Survey was the full text of the Recommendations as a separate document and a cover letter from Melvin Goldman, the 1995 Bar Association president.

Firms returning the Survey were asked to identify themselves solely for purposes of keeping track of which firms responded, and they were assured that their responses would be kept strictly confidential. As each response was received, the first page, which contained the firm's identifying information, was separated from the rest of the Survey. The part of the Survey containing the responses to questions was marked only with the firm's size category: small, mid-size, or large.⁶ Because only five mid-size firms returned Surveys, they were analyzed together with the large firms. Accordingly, this Report refers only to "smaller" and "larger" firms.

Sixty firms responded to the Survey within six months of the Survey's first being sent out. In order to assess whether the responses of these sixty firms accurately reflected the policies of all Bar Association sponsor firms, an additional effort was made to Survey a sample of the non-responding firms. This effort will be described only briefly, because it resulted in only four additional Surveys being returned.

First, all of San Francisco's twenty largest firms, in terms of number of attorneys employed in San Francisco, which had not yet returned the Survey were identified. In addition, a random sample of thirty of the remaining firms was selected. These firms were then contacted by telephone by the Bar Association's President or Executive Director, or a member of the Committee on Sexual Orientation Issues. Although these contacts did result in a few additional Surveys being completed and returned, most of these telephone contacts were met with responses ranging from an unfulfilled promise to return a completed Survey to overt hostility.

The last Survey responses were received in January 1996.

RESPONDENTS

A total of sixty-four firms responded to the Survey.⁷ This represents a response rate of 19%. Approximately eight percent of the respondents were corporate legal departments, and the rest were law firms.

Thirty-six respondents (56%) employ one to fifteen attorneys in San Francisco and are designated "smaller firms" in this report. The median number of attorneys employed by these firms is four. Eleven percent of the smaller firms are solo practitioners. Together, these smaller firms employ approximately 175 attorneys in San Francisco and over 300 attorneys total.

Twenty-eight respondents (44%) employ more than fifteen attorneys in San Francisco and are designated "larger firms" in this report. Approximately twenty-three percent of these firms employ more than 100 attorneys in San Francisco; approximately fifty-eight percent employ more than 100 attorneys firm-wide. Together, these larger firms employ over 2,000 attorneys in San Francisco and over 5,000 attorneys total.

⁶ In the Survey, a firm was designated as "small" if it employed from one to fifteen attorneys, "mid-size" if it employed from sixteen to fifty attorneys, and "large" if it employed fifty-one or more attorneys in San Francisco.

⁷ One firm returned two identical sets of survey responses, and so only one set was included in the analysis. Another firm submitted two sets of responses, one from its San Francisco office and the other from an office in another city. Only the San Francisco office's responses were included in the analysis.

There are reasons for caution in interpreting the results of this Survey, in that the results might not accurately reflect actual attorney-employment practices in San Francisco. First, what the responding firms say they do has not been compared with the perceptions and experiences of their attorneys. Second, only the Bar Association's sponsor firms were surveyed. Third, only a minority of the Bar Association's sponsor firms responded. It is not known how similar responses from the non-responding firms would be.

Nevertheless, there are also reasons to believe that these Survey responses are a good index of the prevailing ethic of employment policies for lesbian and gay attorneys in San Francisco. First, Bar Association sponsor firms employ approximately 4,500 attorneys in San Francisco.⁸ A survey of Bar Association sponsors is therefore likely to be informative about a significant body of San Francisco's legal employers. Second, although only a minority of the sponsor firms responded to the Survey, the firms that chose not to respond did so despite multiple contacts from the Bar Association on the subject. Accordingly, if the non-responding firms had strong feelings about the Recommendations—either favorable or not—they were given ample opportunity to express them. Third, the compliance rates for many of the Recommendations can be attributed to various factors such as legal requirements mandating non-discrimination policies based on sexual orientation, the ease with which a particular Recommendation can be implemented, or firms' perceptions of whether particular Recommendations are necessary. It is likely that these factors affect responding and non-responding firms equally, and that the pattern of compliance of non-responding firms would therefore mirror that of the responding firms.

RESPONSE ALTERNATIVES

This Report reproduces the twenty-three Recommendations promulgated by the Bar Association.

Answers checked, together with any comments supplied, were considered carefully in coding each respondent's response to each question. Two members of the Committee on Sexual Orientation Issues independently reviewed each response. Responses were classified as "Yes," "No," "Not Applicable," or "Not Known," depending upon the answer checked and any comment provided for each question. In some cases the response was classified differently from the response checked because a comment suggested that a different classification would be more accurate. "Not Applicable" responses include both the checking of the statement provided that means not applicable as well as responses including a comment that means not applicable. "Not Known" responses include comments indicating that the person completing the Survey did not know the answer, as well as ambiguous answers or no answer at all. Responses are tabled in this Report for each question.

For each question a "Compliance" score has been calculated, which represents the number of firms that have adopted the Recommendation among the responding firms for which the question was applicable. Compliance is equal to the number of "Yes" responses divided by the total number of "Yes" and "No" responses.

COMMENTS

For each question, a few especially interesting comments provided by responding firms are presented as "Selected Comments."

⁸ In addition to the approximately 4,500 attorneys employed by Bar Association sponsor firms the Bar Association has approximately 4,000 other attorney members

OVERALL SUMMARY OF RESPONSES

This report contains a question-by-question analysis of Survey responses. Twenty-eight questions covered twenty-three Recommendations. When the Recommendations were promulgated they were grouped into four subject categories. A brief summary of responses by Recommendation category is presented here, followed by the question-by-question analysis.

General Employment Policies and Practices

The three Recommendations in this section address each firm's general commitment to equal employment and anti-discrimination training concerning sexual orientation issues. All respondent firms represented that they have a commitment to equal employment opportunity for gay and lesbian attorneys. Larger firms are more likely than smaller firms to have written anti-discrimination policy and to provide formal anti-discrimination training concerning sexual orientation issues.

Recruitment and Hiring

The six Recommendations in this section address each firm's recruitment efforts to make itself accessible to gay and lesbian applicants. To the extent that the Recommendations were relevant to their overall recruitment and hiring practices, most larger firms have adopted these Recommendations. Smaller firms are both less likely to find the Recommendations compatible with their overall recruiting practices and to adopt them.

Retention, Advancement, and Compensation

The eight Recommendations in this section address each firm's efforts to create an environment in which gay, lesbian, and heterosexual attorneys are equally able to integrate their personal and professional lives at the firm. A vast majority of firms regard lesbian and gay professional associations as equivalent to other comparable associations and regard domestic partners as spousal equivalents for social purposes. Recommendations concerning mentors, mutual support, newsletters, and legal issue lunches have been adopted by about half of the firms for whom they are relevant. Nearly all firms have a policy against bias on the basis of sexual orientation in performance evaluations, work assignments, and grievance procedures.

Employee Benefits

The six Recommendations in this section address each firm's provision of employment benefits to gay and lesbian attorneys and their families. With the notable exception of health benefits, a solid majority of firms provide benefits to the households of lesbian and gay attorneys that are equivalent to the benefits provided to the households of married attorneys.

RECOMMENDATIONS AND SUMMARIES OF RESPONSES

RECOMMENDATION I

**Management Commitment to
Equality and Diversity**

- ▶ Legal employers must make a commitment to the fair and equal recruitment, hiring, retention, advancement, and compensation of gay and lesbian employees and applicants. In order to effectively move the entire institution toward adoption of these goals as important business and management objectives, the managing partner/chief counsel, or a formally and publicly designated high-profile attorney with authority and clout, should assume an active leadership role in the organization's efforts.

Selected Comments

“We always have been committed to equal employment opportunity.”

—SMALLER FIRM RESPONDING “YES”

“In the sense that we pay absolutely no attention to such matters.”

—SMALLER FIRM RESPONDING “YES”

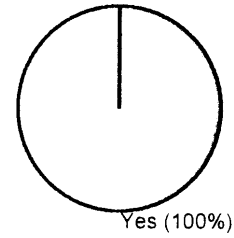
“We were founded as a lesbian law collective. We have recently hired heterosexual women for the first time. (I suppose this is a form of equal employment!)”

—SMALLER FIRM RESPONDING “YES”

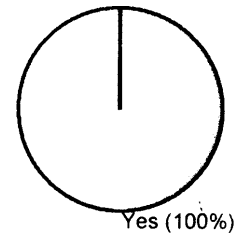
Question ?

Is your firm or corporation committed to equal employment opportunity (including recruitment, hiring, retention, advancement, and compensation) for gay and lesbian attorneys?*

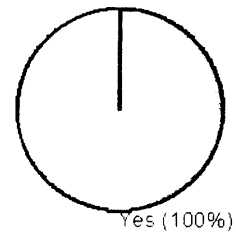
Smaller Firms



Larger Firms

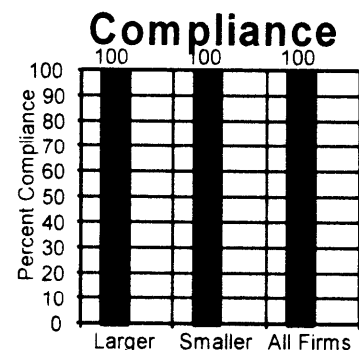


All Firms



Summary of Responses

Every firm endorsed a commitment to equal employment opportunity for gay and lesbian attorneys. Some of the smaller firms commented that although they are too small to have formal policies or to have hired associates or staff, they nevertheless are “in accord” with BASF’s policies or intended to abide by non-discrimination policies if they had an opportunity to hire in the future. One of the larger firms specifically noted that its non-discrimination policy applies to all employees, regardless of job title or position. The high rate of commitment to equal employment opportunity may be attributable in part to the existence of California Labor Code, section 1101.2, which prohibits employment discrimination based on sexual orientation.



*NO “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 2

Anti-Discrimination and Equal Employment Opportunity Policies

- ▶ Employers should articulate, in all appropriate publications, policies, and procedures, the organization’s commitment to and policy of equal opportunity in employment, which should specifically prohibit discrimination, including harassment, on the basis of sexual orientation and marital status. The policy should include a statement that AIDS and HIV-related conditions will be treated in the same manner as any other disability protected by law.

Selected Comments

“Part of our Affirmative Action Plan.”

—LARGER FIRM RESPONDING “YES”

“Not needed.”

—SMALLER FIRM RESPONDING “NO”

“Everyone knows there’s a strong unwritten policy against discrimination.”

—SMALLER FIRM RESPONDING “NO”

“We are a very small, primarily lesbian office, so this hasn’t been necessary.”

—SMALLER FIRM RESPONDING “NO”

Question ?

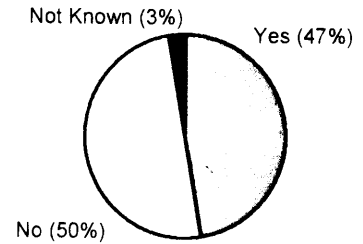
2

Does your firm or corporation have a written policy prohibiting employment discrimination against attorneys on the basis of sexual orientation? *

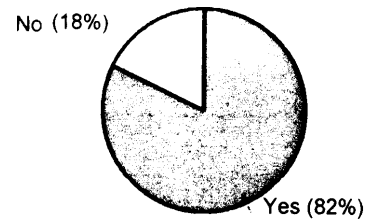
Summary of Responses

Although written anti-discrimination policies concerning sexual orientation are not universal, many firms that do not have such policies do not have any written policies concerning discrimination. Among larger firms, where written anti-discrimination policies are more common, 82% have a written policy that includes sexual orientation. One of the larger firms that did not include sexual orientation in its written employment manual indicated an intent to revise the manual to include it. Other larger firms without written equal employment opportunity policies indicated their commitment to anti-discrimination policies' including sexual orientation. As for smaller firms, the primary reason stated for not having a written anti-discrimination policy concerning sexual orientation was their small size.

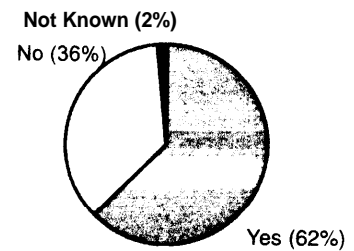
Smaller Firms



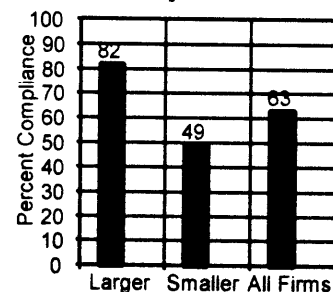
Larger Firms



All Firms



Compliance



*NO "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 3

Training

- ▶ Employers should conduct educational and training programs and provide employees with written guidelines intended to educate all employees, including non-lawyer staff, about sexual orientation issues, including HIV-related issues. Human relations workshops, either led by experienced outside consultants or by gay and lesbian attorneys or others within the firm, and focused on issues affecting lesbians and gay men as well as minorities, women and individuals with disabilities, can serve as an ideal first step in such efforts. These workshops can result in a frank exchange of views among employees, bringing to the attention of heterosexual employees the everyday realities of law firm life as experienced by gay and lesbian employees.

Selected Comments

“We showed *Inside/Out* for MCLE credit.”

—LARGER FIRMS RESPONDING “YES”

“We had a firmwide meeting in April 1992 on diversity issues (sexual orientation, ethnic, cultural, etc.). We have ongoing training on sexual orientation issues as they relate to attorney recruitment.”

—LARGER FIRMS RESPONDING “YES”

“Not formal, but since the managing partner is gay, I suppose they get some kind of training.”

—SMALLER FIRM RESPONDING “NO”

“We have no ‘training’ on anything other than how to practice law well.”

—SMALLER FIRM RESPONDING “NO”

“This firm only hires liberal-minded people, but if, per chance, an employee was discovered to be homophobic an effort would be made to educate the employee to understand their ignorance and to shape-up or ship-out.”

—SMALLER FIRM RESPONDING “NO”

Question 3

3 a.— Does your firm or corporation provide training for attorneys on sexual orientation issues? *

3b.— Does your firm or corporation provide training for non-attorney staff members on sexual orientation issues? *

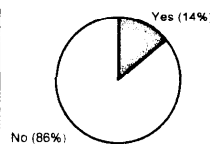
Summary of Responses

3a.— Larger firms are much more likely to provide attorneys with training on sexual orientation issues than are smaller firms. From the comments received, it appears that most firms that address sexual orientation issues do so in the context of general diversity training. Of the larger firms that do not provide sexual orientation training, three firms indicated that they do not provide formal training, and one firm stated its intention to include such training later in the year. Not surprisingly, only a small percentage of smaller firms answered yes to this question, primarily because such firms consider themselves too small to require' diversity training of any kind.

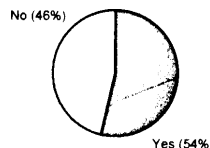
3b.— Firms were somewhat less likely to provide training to non-attorneys than to attorneys on sexual orientation issues, apparently because firms are less likely to provide training on diversity issues to non-attorney staff than to attorneys. Several firms noted, however, that although they did not provide formal training, the presence of gay or lesbian attorneys or staff, and in one case "a beloved office partner who died of AIDS," had helped both to educate and sensitize employees to these issues.

Question 3 a.

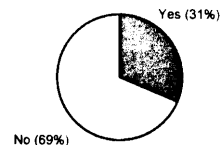
Smaller Firms



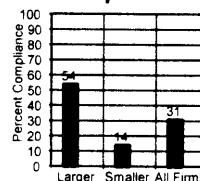
Larger Firms



All Firms

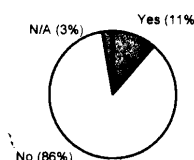


Compliance

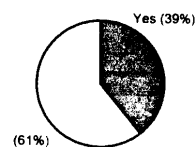


Question 3 b.

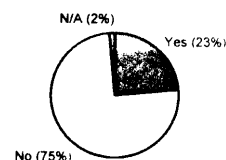
Smaller Firms



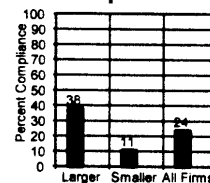
Larger Firms



All Firms



Compliance



*NO "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 4

Representation on Hiring Committees

- ▶ Employers should ensure that at least one lesbian or gay attorney sits on the hiring committee.* This attorney can review resumes that are submitted to ensure that openly lesbian and gay candidates (and those whose resumes indicate that this may be the case) are matched with lesbian and gay-sensitive attorneys in the course of their call-back interviews, and are steered away from those who have consistently manifested bias based on the sexual orientation of applicants.

Active participation of openly lesbian or gay members in the recruitment and hiring process can often change the dynamics of the committee, educating and sensitizing the other members, confronting and challenging overt or subtle bias on the part of committee colleagues when necessary, and causing the committee as a whole to be more objective and fair in its deliberations and decisions.

Selected Comments

“I’m the hiring committee.”

—SMALLER FIRM RESPONDING BOTH “YES” AND “OUR FIRM/CORPORATION DOES NOT HAVE A HIRING COMMITTEE” AND CLASSIFIED AS RESPONDING “NOT APPLICABLE”

“Because we do not inquire as to the sexual orientation of our employees, we have not established a mechanism to identify gay or lesbian representation. We do, however, welcome participation by interested and qualified gay and lesbian attorneys.”

—LARGER FIRM RESPONDING “NO”

* If an employer wishes to place an openly lesbian or gay attorney on its hiring committee, it can send a memo to all attorneys indicating its desire to place such a person on the committee and asking that anyone interested in this role contact the person in charge of hiring. The employer can then make its selection from among the volunteers.

Question ?

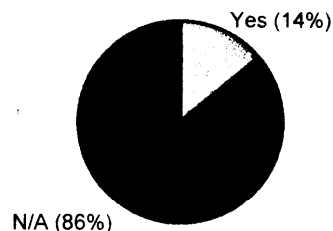
4

Does your firm or corporation have at least one lesbian or gay attorney sit on the hiring committee? *

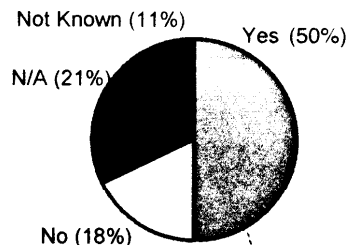
Summary of Responses

■ Among the firms with a hiring committee, a solid majority declared that they did have at least one gay or lesbian attorney on the committee. Favorable responses to this question capture only whether the committee currently includes a gay or lesbian member. Thus, one larger firm noted: "Although this is true at present, there is no policy requiring it. Hence, it may not always be the case." Of the firms with hiring committees that answered no to this question, all indicated their commitment to have diverse representation on their committees.

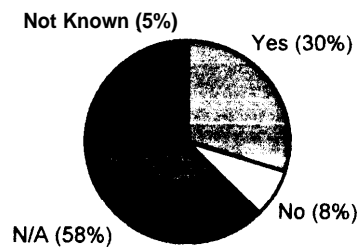
Smaller Firms



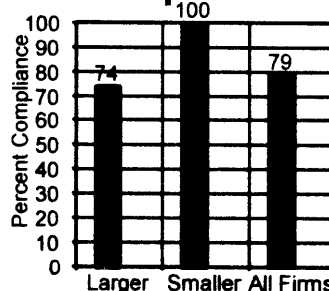
Larger Firms



All Firms



Compliance



**"NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT HAVE A HIRING COMMITTEE."

RECOMMENDATION 5

Recruitment Letters

- ▶ Employers should ensure that recruitment letters are sent to law school lesbian and gay student organizations. These letters should convey the employer's commitment to workforce diversity, including assurances that an applicant's sexual orientation, or openness about his or her sexual orientation, will not adversely affect the employment prospects of that individual.

Selected Comments

“When sending distributions to student interest groups, we include the gay, lesbian, and bisexual organizations on campus in such mailings.”

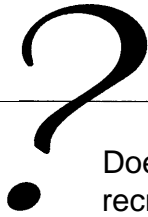
—LARGER FIRM RESPONDING “YES”

“We do send notices of openings to gay and lesbian bar associations.”

—LARGER FIRM RESPONDING “NO”

Question

5

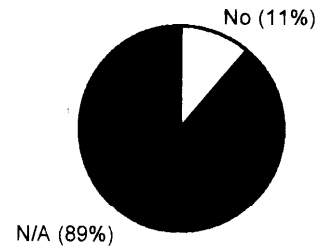


Does your firm or corporation send recruitment letters to lesbian and gay student organizations? *

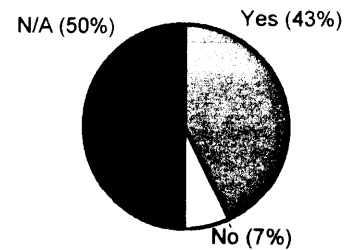
Summary of Responses

Most firms do not send recruitment letters to lesbian and gay student organizations simply because they do not target any student organizations. Among the larger firms that do send recruitment letters, the vast majority do include lesbian and gay student organizations in their recruitment efforts. One of the two larger firms that did not send letters to lesbian and gay student organizations did note, however, that it sends notices of available positions to gay and lesbian bar associations. None of the four smaller firms who send recruitment letters to student organizations do so to lesbian and gay student organizations.

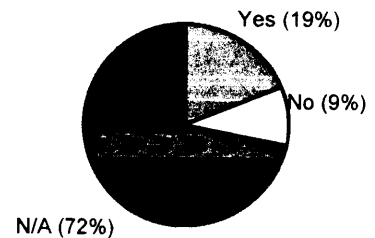
Smaller Firms



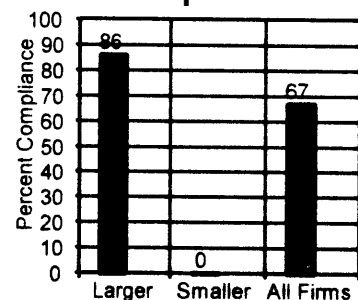
Larger Firms



All Firms



Compliance



* "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT SEND RECRUITMENT LETTERS TO ANY STUDENT ORGANIZATION."

RECOMMENDATION 6

Gay-Sensitive Contacts

- ▶ Employers should identify and publicize the names of lesbian and gay-sensitive contacts (ideally, at least one male and one female) within the organization whom applicants can contact with questions that they might not feel comfortable raising during an interview. These individuals can be identified in recruitment literature sent to lesbian and gay law student organizations, or in more generic materials sent to placement offices. If there are currently no openly gay or lesbian attorneys in the organization, a heterosexual attorney who is sensitive to lesbian and gay issues should serve as the contact. This person must be fully briefed on the employer’s policies concerning gay and lesbian issues, understanding the applicants must be given the option of having these discussions kept confidential.

Selected Comments

“One of our partners has been contacted by a potential employee, because of a listing in the BALIF* directory. (One such candidate is now an attorney with our firm.)”

—SMALLER FIRM RESPONDING “NO”

“We do nothing like this for any group of any sort.”

—SMALLER FIRM RESPONDING “NO”

* Bay Area Lawyers for Individual Freedom

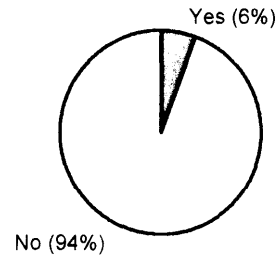
Question **6**

Does your firm or corporation identify a lesbian—and/or gay-sensitive contact for attorney applicants? *

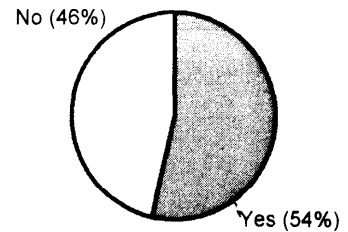
Summary of Responses

■ A slight majority of larger firms identify a lesbian-and/or gay-sensitive contact for attorney applicants, but only a small minority of smaller firms do. One larger firm that does not provide such contacts noted “privacy considerations” as its reason. Among the smaller firms, the primary reason stated for not doing so was that they do not recruit.

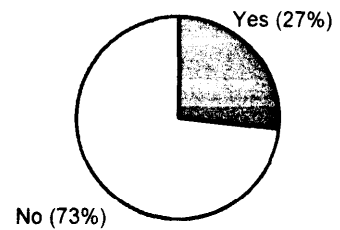
Smaller Firms



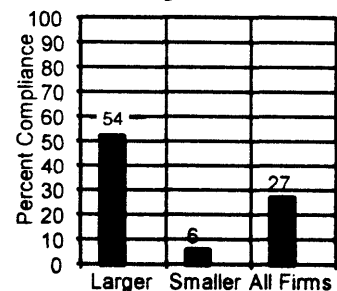
Larger Firms



All Firms



Compliance



*NO “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 7

Firm Resumes

Firm resumes and brochures that include reference to pro bono activities should include lesbian or gay-related *pro bono* services performed by members of the firm, such as service on the AIDS Legal Referral Panel. Similarly, service on the boards of lesbian, gay or HIV-related community organizations should be highlighted along with the firm's other community service activities.

Selected Comments

“If ALRP* counts.”

—SMALLER FIRM RESPONDING “YES”

“We do much pro bono work for gay-related organizations, but we do not identify clients in our resume.”

—LARGER FIRM NOT CHECKING RESPONSE, BUT CLASSIFIED AS RESPONDING “NO”

* AIDS Legal Referral Panel.

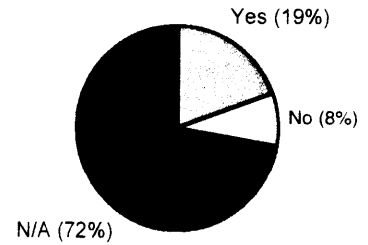
Question 7

Does your firm or corporation's resume refer to lesbian- and/or gay-related pro bono services? *

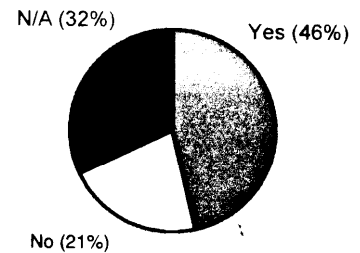
Summary of Responses

■ Slightly fewer than half of the firms responded that they had firm resumes with pro bono services identified, and among these, a solid majority responded that they included lesbian- and/or gay-related services. A number of firms noted that they include their support of the AIDS Legal Referral Panel.

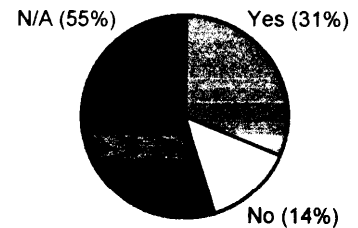
Smaller Firms



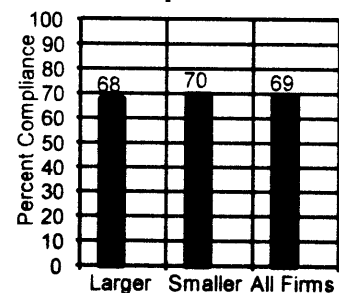
Larger Firms



All Firms



Compliance



* "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION'S RESUME DOES NOT REFER TO ANY PRO BONO SERVICES."

RECOMMENDATION 8

Specialized Training for All Interviewers

- ▶ Training for interviewers should include identification both of inappropriate areas of inquiry, such as the candidate's sexual orientation (unless volunteered), marital or relationship status or family plans. It should also emphasize exploring appropriate areas of inquiry, such as lesbian and gay-oriented activities or employment listed on the resume. It is important to note that this is a sensitive area. Therefore, questions should be restricted to activities and employment experiences that are disclosed, unless an applicant volunteers information about his or her private life.

Selected Comments

“We show the */inside/Out* video at least twice a year.”

—LARGER FIRM RESPONDING “YES”

“Our interviewers know that sexual orientation is irrelevant to hiring and employment issues.”

—SMALLER FIRM RESPONDING “NO”

“We do not ‘train’ interviewers on anything.”

—SMALLER FIRM RESPONDING “NO”

“Interviewers are liberal-minded people.”

—SMALLER FIRM RESPONDING “NO”

Question

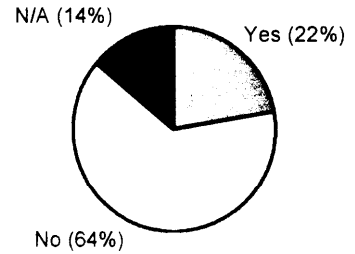
8

Does your firm or corporation train employment interviewers on the appropriate handling of sexual orientation issues? *

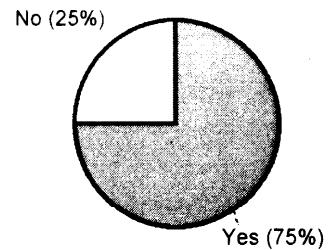
Summary of Responses

■ Larger firms are more likely than smaller firms to provide interviewer training on sexual orientation issues. A majority of larger firms provide some type of training ranging from informal discussions to more formal presentations, including screenings of the video *INSIDE/OUT: A Portrait of Lesbian & Gay Lawyers*. Most smaller firms do not provide interviewer training on sexual orientation issues. Some of the firms that do not provide this training commented that they do not provide interviewer training on any subject. Among those firms that do not train interviewers, a few firms commented that their interviewers were “liberal minded people” or knew how to handle sexual orientation issues.

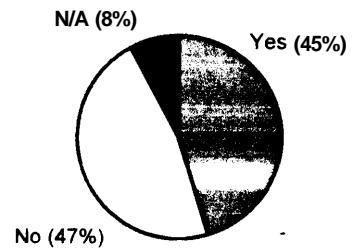
Smaller Firms



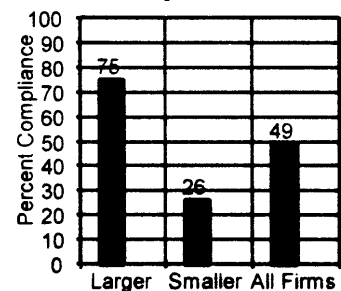
Larger Firms



All Firms



Compliance



*NO “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 9

Welcome Packets

- ▶ If a “Welcome Packet” is given to new employees or summer associates, the packet should include the firm’s policy of non-discrimination on the basis, *inter alia*, of sexual orientation, marital status or HIV-status. It may also identify gay and lesbian contacts within the firm. Community resources should include those oriented toward the gay and lesbian communities. If a summer associate or new employee has clearly identified herself or himself as lesbian or gay, a publication such as the *B.A.R.*, the *Sentinel*, and/or the *Bay Times* can be included in the packet. If professional associations are listed, lesbian and gay organizations such as BALIF and the Bar Association’s Committee on Lesbian and Gay Issues should be included. Calendars of local events should contain the Lesbian/Gay Freedom Day Parade, the San Francisco International Lesbian & Gay Film Festival, and the AIDS Walk.

Selected Comments

“ Included in our orientation materials is the firm’s policy on discrimination on the basis of sexual orientation.”

—LARGER FIRM RESPONDING “YES”

“ To the same extent it would be of interest to all attorneys.”

—LARGER FIRM RESPONDING “YES”

“ We provide new attorneys and summer associates with various firm-related materials (although we would not label them a ‘welcome packet’), but we believe it would be inappropriate to target materials to gay or lesbian attorneys, summer clerks, or staff. We do ensure that each new attorney has a mentor (two mentors for summer clerks) to ensure that he or she is properly integrated into the firm. Also, an Orientation Session, consisting of two to three meetings, is provided to new associates as a group in the fall to achieve this goal.”

—LARGER FIRM RESPONDING “OUR FIRM/CORPORATION DOES NOT PROVIDE NEW ATTORNEYS OR SUMMER ASSOCIATES WITH WELCOME PACKETS.”

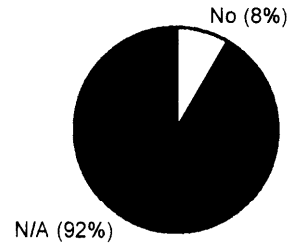
Question 9

Do your firm or corporation's welcome packets for new attorneys and summer associates include information of particular interest to lesbians and gay men? *

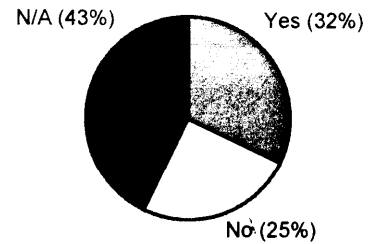
Summary of Responses

Nearly half of the larger firms and almost all of the smaller firms do not provide welcome packets. Among the larger firms that provide welcome packets, approximately half reported that they included information of interest to gay and lesbian attorneys. Some firms indicated that they satisfied this recommendation because they included copies of their anti-discrimination policy.

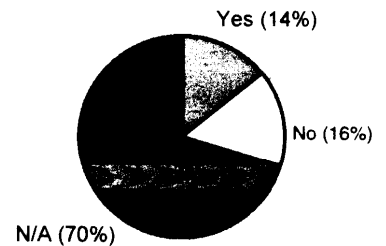
Smaller Firms



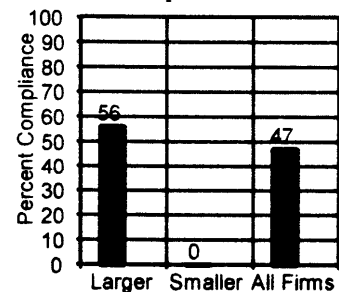
Larger Firms



All Firms



Compliance



* "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT PROVIDE NEW ATTORNEYS OR SUMMER ASSOCIATES WITH WELCOME PACKETS."

RECOMMENDATION 10

Mentoring Program

- ▶ Employers should provide their attorneys with formal support structures, such as a mentoring program. The importance of the assignment of an advisor or a mentor cannot be overemphasized. This is especially the case for gay men and lesbians, women, minorities, and individuals with disabilities, who have traditionally been excluded from the informal networking process existing in the workplace. The mentor can serve as a resource in numerous ways: as a teacher of the law and lawyering; as a source of business opportunities and career-enhancing work assignments; as a source of feedback and publicity for the newer lawyer's accomplishments; as a bridge/link for connecting to the organization; as a troubleshooter; as a career counselor; as a source of collegiality and friendship; and, as an advocate for the newer lawyer's advancement and promotion.

The mentor should be a partner or comparable-level supervising attorney, who may or may not be in a direct line supervisory relationship with the new lawyer. It is important that the mentor have the necessary position and authority, and the commitment, ability, and sensitivity, to fulfill the role effectively.

Selected Comments

“For almost twenty years, we have recognized the importance of a mentoring program to the development and success of all new attorneys and have made a strong commitment to our program. Our firm has had a formal mentoring program for all associates for the last eight years, the functions of which are now part of the duties of our Diversity and Associate Mentoring Committee.”

—LARGER FIRM RESPONDING “YES”

“We don't have mentors—It's sink or swim.”

—LARGER FIRM RESPONDING “NO”

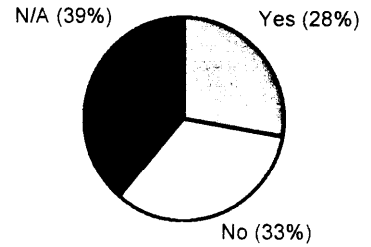
Question **?**
10

Does your firm or corporation provide all associates with in-house mentors?*

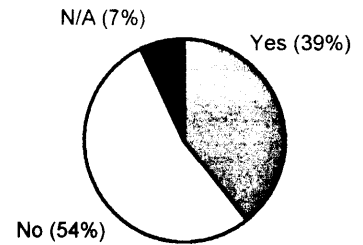
Summary of Responses

- Of the firms that employ associates, fewer than half have formal mentoring programs. Other firms noted that they have informal mentoring or provide mentor programs in specific departments.

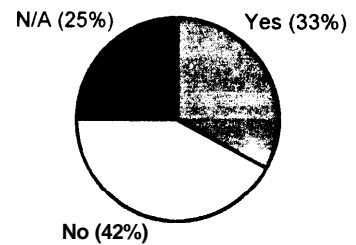
Smaller Firms



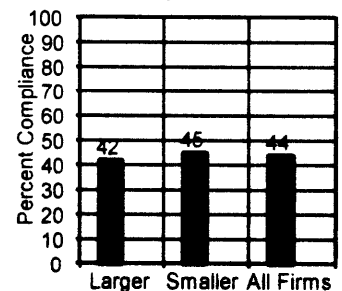
Larger Firms



All Firms



Compliance



*NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT EMPLOY ASSOCIATES."

RECOMMENDATION II

Non-Discrimination in Performance Evaluations, Work Assignment, and Grievance Procedures

- ▶ An employer's anti-discrimination policy with regard to sexual orientation is given life through its application to existing personnel. Employers should promote fairness and objectivity in performance reviews by making special efforts to identify and overcome subtle bias in the evaluation of gay and lesbian employees. Similarly, presumed or actual client preference should play no role in the assignment of work to gay and lesbian lawyers, just as racist or sexist client biases are not honored. If an employer exhibits confidence in an employee, the client is likely to do the same. Finally, to ensure that homophobic hostility can be remedied when it arises, an employer should provide employees with a neutral mechanism, independent of an immediate supervisor, for discussion of perceived bias. This could take the form of a general announcement of the ability to raise diversity-related concerns to line management, mentors, or a designated representative or committee, or by the employer's use of independent evaluators—separate from those actually providing the substantive evaluation—who invite response from the employee and are in a position to probe and challenge evaluators as to their conclusions.

The difficult question may arise as to whether a partner/supervising attorney/mentor should initiate a discussion with an openly gay or lesbian lawyer concerning issues relating to sexual orientation if the employee has not first raised them. Although some lawyers may regard this as intrusive, there are many others who would prefer greater management recognition of and sensitivity to their concerns, but who do not wish to be perceived as malcontents with an "attitude problem."

If a manager does decide to inquire about the comfort level of an openly gay or lesbian employees in the work environment, it should be done privately on an individual basis. One opening might be, "We realize that there are only a few openly gay or lesbian lawyers here and we recognize the issues that may be posed by this. If there are any concerns you have in that regard that you would like to discuss, please feel free to discuss them with me or [other designee]."

Selected Comments

"Successful."

—SMALLER FIRM RESPONDING "YES"

"In the sense that we have no bias on any subject; we have not set down in a meeting and made a list of things against which we have no bias."

—SMALLER FIRM RESPONDING "YES"

Question ?

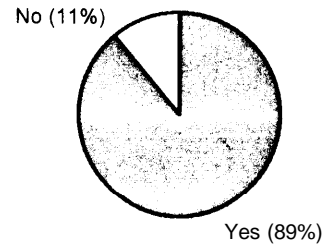
II

Does your firm or corporation have a policy against bias on the basis of sexual orientation in performance evaluations, work assignments, and grievance procedures? *

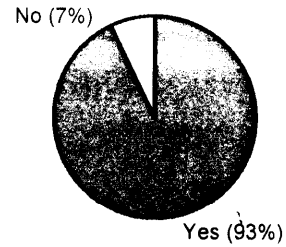
Summary of Responses

■ The vast majority of all firms reported having a policy against bias in these areas. In contrast, as required by California Labor Code, section 1101.2, *all* firms reported a “commitment” to equal employment opportunity for gay and lesbian attorneys. (See Question 1.) Firms responding “No” to this question commented that they do not have a specific policy addressing these areas.

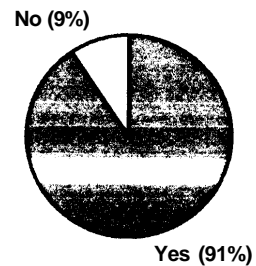
Smaller Firms



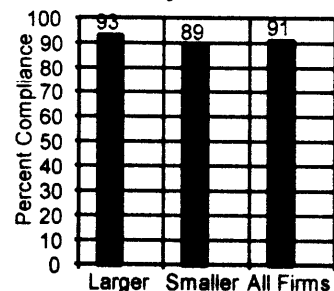
Larger Firms



All Firms



Compliance



*NO “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 12

Social Function Policy

Employers should establish a policy, communicated in personnel manuals and orientation meetings, stating that invitations to office functions or other employer-sponsored events should use neutral designations such as “guest” rather than “spouse.”

Selected Comments

“Absolutely.”

—SMALLER FIRM RESPONDING “YES”

“Firm does not have social events.”

—SMALLER FIRM NOT CHECKING RESPONSE, CLASSIFIED AS RESPONDING “NOT APPLICABLE”

Question ?

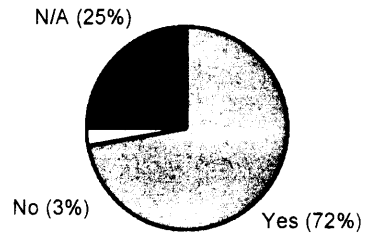
12

Does your firm or corporation extend social invitations to "guests" rather than "spouses"? *

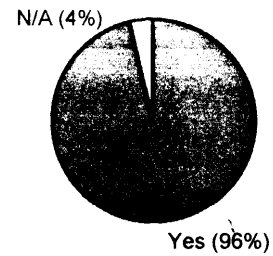
Summary of Responses

■ Almost all of the firms that extend social invitations use the term "guests" or its equivalent, rather than the term "spouses."

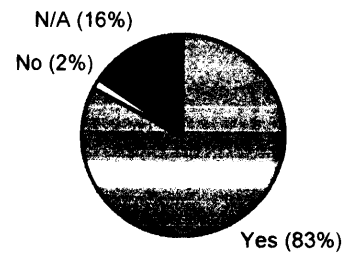
Smaller Firms



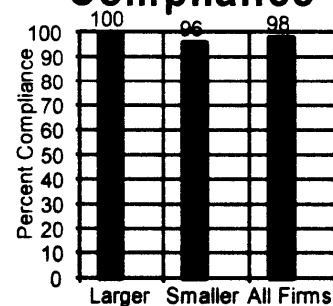
Larger Firms



All Firms



Compliance



*NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 13

“Spouse” Lists

Employers should list the domestic partners of lesbian and gay employees who so desire in the same manner that the spouses of heterosexual employees are listed, for example in “spouse” lists or “face books” distributed either in-house or to applicants and clients.

Selected Comments

“We would if I could get a boyfriend.”

—LARGER FIRM NOT CHECKING RESPONSE, BUT CLASSIFIED AS RESPONDING “YES”

“Upon request.”

—LARGER FIRM RESPONDING “YES”

“The matter has not arisen.”

—MALLER FIRM NOT CHECKING RESPONSE

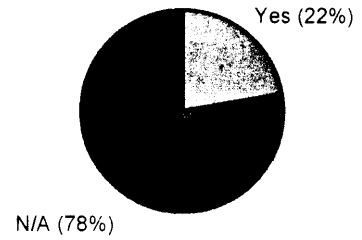
Question 13

Does your firm or corporation list the domestic partners of lesbian and gay attorneys in the same manner as spouses of heterosexual attorneys?*

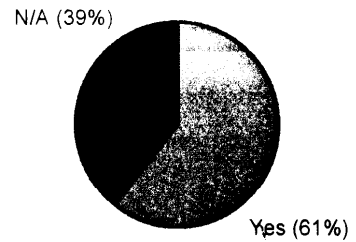
Summary of Responses

Every firm that maintains a list of attorneys' spouses reports that it will include domestic partners in the list. Larger firms are more likely than smaller firms to maintain such lists. Several comments suggest that employees may have to request that their domestic partners be listed while spouses are listed as a matter of course.

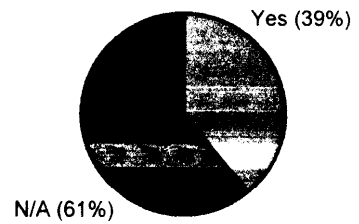
Smaller Firms



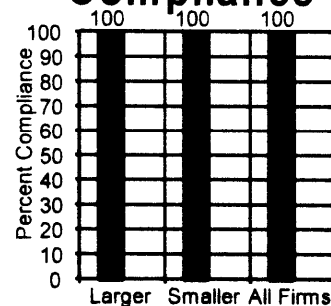
Larger Firms



All Firms



Compliance



* "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT IDENTIFY THE SPOUSES OF HETEROSEXUAL ATTORNEYS IN ANY WAY."

RECOMMENDATION 14

Professional Associations

Employers should pay employees' membership dues to lesbian and gay professional associations, such as BALIF, on the same basis as the employer pays for memberships in other professional associations. Employees' activities in lesbian and gay professional associations should be supported on the same basis as activities in other professional associations, such as table sponsorship at annual dinners and fundraising events.

Selected Comments

“The firm pays for any two bar memberships at the choice of the attorney.”

—LARGER FIRM RESPONDING “YES”

“Firm policy states the firm pays for state bar dues and sections only.”

—LARGER FIRM RESPONDING “NO”

“The issue has never arisen.”

—LARGER FIRM NOT CHECKING RESPONSE, CLASSIFIED AS RESPONDING “NOT APPLICABLE”

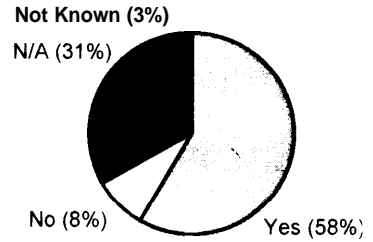
Question **14** ?

Does your firm or corporation pay membership dues for lesbian and gay professional associations on the same basis as other professional associations?*

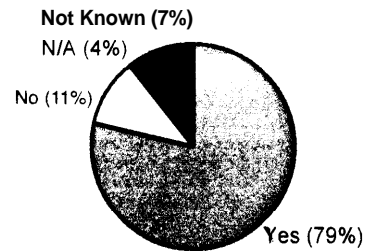
Summary of Responses

■ A clear majority of both larger and smaller firms reported that they do pay or would be willing to pay membership dues for lesbian and gay professional associations on the same basis as other professional associations. Some firms indicated either that the issue of paying dues for gay and lesbian professional associations had never arisen or that they have a policy of paying dues only for a select group of professional associations.

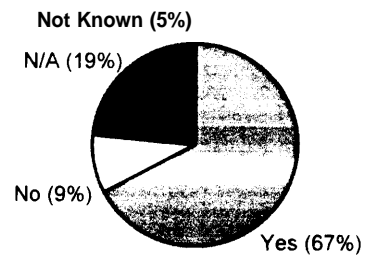
Smaller Firms



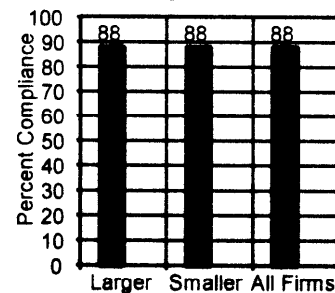
Larger Firms



All Firms



Compliance



*"NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT PAY MEMBERSHIP DUES FOR ANY PROFESSIONAL ASSOCIATIONS."

RECOMMENDATION 15

Internal Newsletters

- ▶ If the employer has an internal newsletter, it should periodically include items of particular interest to lesbian and gay employees. Internal newsletters may also be used to help educate heterosexual employees about issues affecting lesbians and gay men. Additionally, newsletters should report the achievements of those who work within the lesbian and gay community.

Selected Comments

“I.e., AIDS walks, gay and lesbian picnics, or brown bag lunches.”

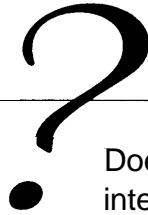
—LARGER FIRM RESPONDING “YES”

“Our newsletter does not attempt to identify items as being of ‘particular interest’ to any group or sub-group.”

—LARGER FIRM NOT CHECKING RESPONSE, BUT CLASSIFIED AS RESPONDING “NO”

Question

15

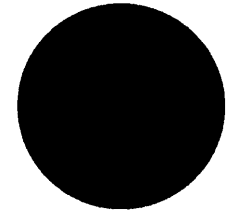


Does your firm or corporation's internal newsletter periodically include items of particular interest to lesbian and gay employees?*

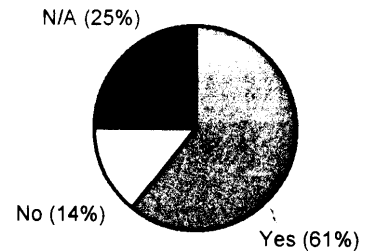
Summary of Responses

- Three quarters of the larger firms but none of the smaller firms have internal newsletters. Of the firms with newsletters, a large majority reported that they periodically include items of particular interest to lesbian and gay employees.

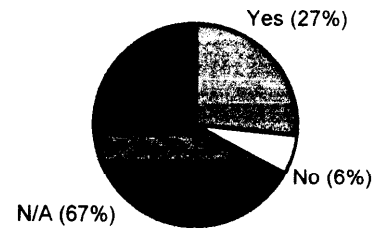
Smaller Firms



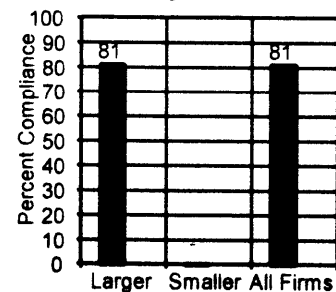
Larger Firms



All Firms



Compliance



"NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT HAVE AN INTERNAL NEWSLETTER."

RECOMMENDATION 16

Informal Exchanges

- ▶ Employers should foster opportunities for gay and lesbian attorneys to support each other in the work environment. For instance, an employer may sponsor a periodic luncheon, dinner, or other appropriate social event for lesbian and gay employees. Events should also be sponsored for lesbian and gay employees that include heterosexual employees, to build mutual understanding and respect.

Selected Comments

“I’m the only one!”

—SMALLER FIRM RESPONDING “NO”

“This corporation does not seek to identify the sexual orientation of its employees. Employees, including attorneys, may associate with each other as they see fit.”

—LARGER FIRM NOT CHECKING RESPONSE, CLASSIFIED AS RESPONDING “NO”

“Too small to be relevant. Frankly the biggest problem has been closeted associates who are afraid of guilt by association.”

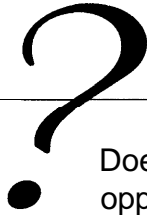
—LARGER FIRM NOT CHECKING RESPONSE, CLASSIFIED AS RESPONDING “NOT APPLICABLE”

“I do not understand the question. Nor would I if any other adjective were substituted.”

—SMALLER FIRM NOT CHECKING RESPONSE, CLASSIFIED AS RESPONDING “NOT KNOWN”

Question

16

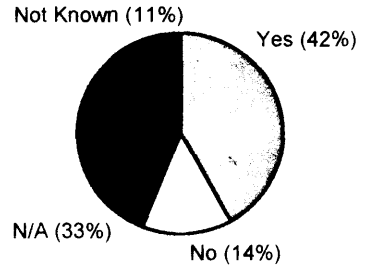


Does your firm or corporation foster opportunities for lesbian and gay attorneys to support each other in the work environment?*

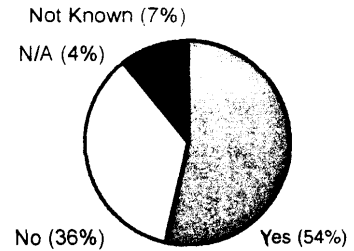
Summary of Responses

■ Slightly more than half of the larger firms and slightly fewer than half of the smaller firms reported that they did foster opportunities for lesbian and gay attorneys to support each other in the work environment. Other firms commented that either the question was not applicable or that they had no formal mechanism for offering these opportunities. One corporate legal department noted that the company has a support group for gay and lesbian employees.

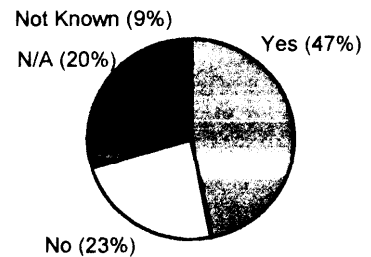
Smaller Firms



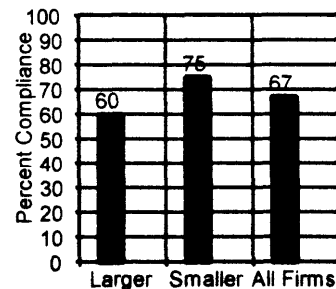
Larger Firms



All Firms



Compliance



*NO "APPLICABLE" RESPONSE ALTERNATIVE PROVIDED.

RECOMMENDATION 17

Lunch Programs

- ▶ Employers who sponsor regular firm lunches focusing on legal issues of interest to their attorneys should include programs on lesbian and gay legal issues, pro bono opportunities with local lesbian and gay rights groups, or the work of local lesbian and gay professional associations. The employer may contact such organizations as BALIF, the National Center for Lesbian Rights, the AIDS Legal Referral Panel, Lambda Legal Defense and Education Fund, the Committee on Lesbian and Gay Issues of the Bar Association of San Francisco, or the Gay Rights Chapter of the ACLU of Northern California to provide guest speakers for such programs.

Selected Comments

“The firm has periodically sponsored lunches on matters involving diversity and equal employment opportunity issues, including gay and lesbian issues.”

—LARGER FIRM RESPONDING “YES”

“Not as a specific group.”

—LARGER FIRM NOT CHECKING RESPONSE, CLASSIFIED AS RESPONDING “NO”

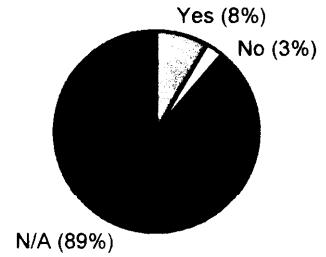
Question **17** ?

Do your firm or corporation's legal-issue lunches periodically address issues of particular interest to lesbian and gay attorneys?*

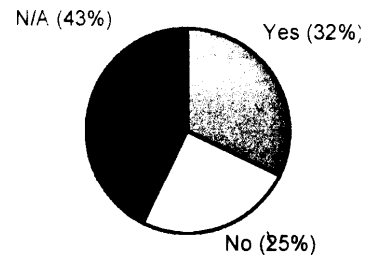
Summary of Responses

Approximately half of the larger firms, but only four of the smaller firms, sponsor legal-issue lunches. A majority of the firms that sponsor such lunches report that they include topics of particular interest to lesbian and gay attorneys. However, two of these firms commented that their lunches were of interest to lesbian and gay attorneys "as people" and "to the same extent that issues are of interest to all attorneys."

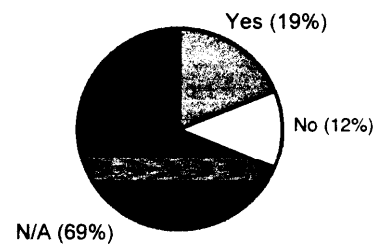
Smaller Firms



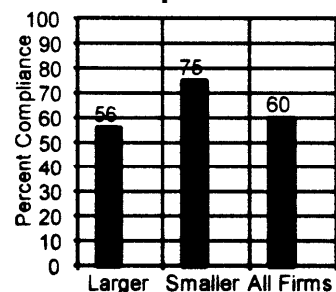
Larger Firms



All Firms



Compliance



*"NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT HAVE LEGAL-ISSUE LUNCHES."

RECOMMENDATION 18

Health Benefits

- ▶ Employers should offer health benefits to the domestic partners of lesbian and gay employees, to the extent possible under the federal tax law rules, on the same terms that they are available to the spouses of heterosexual employees.* Children of lesbian and gay couples should also be eligible for coverage on the same basis as the biological children, adopted children and stepchildren of married employees. See the appended Resources list for further information on domestic partner health benefits.

Selected Comments

“For support staff.”

—SMALLER FIRM RESPONDING “YES”

“We are presently looking at adding this provision.”

—LARGER FIRM RESPONDING “NO”

“We offer a financial subsidy to gay and lesbian couples equivalent to what traditional coverage for a dependent would be (net). This is offered to all employees who are gay or lesbian.”

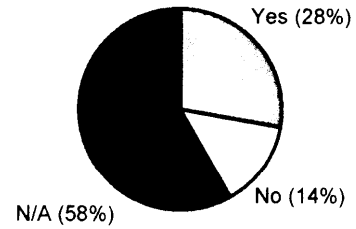
—LARGER FIRM RESPONDING “OUR FIRM/CORPORATION DOES NOT OFFER ANY HEALTH BENEFITS TO OUR ATTORNEYS’ SPOUSES.”

*Employers should seek the admission of domestic partners to a covered group, with the cost of coverage to be paid on an after-tax basis. If an employer is unable to obtain such coverage, it can pay the premium for outside individual insurance for domestic partners, though this usually costs more, covers less and excludes more pre-existing conditions. Since the value of this benefit is not a non-taxable employee benefit under ERISA, and, therefore, taxable income to the employee, the employer should additionally pay the employee a dollar amount equal, after taxes, to the income tax liability for the benefit. Employers are advised to seek the advice of tax counsel in promulgating their policies in this area.

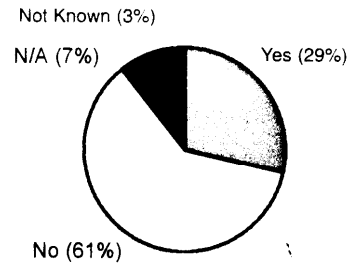
Question **?**
18

Does your firm or corporation offer health benefits to the domestic partners of lesbian and gay attorneys, to the extent legally allowable, on the same terms as are offered to the spouses of heterosexual attorneys?*

Smaller Firms



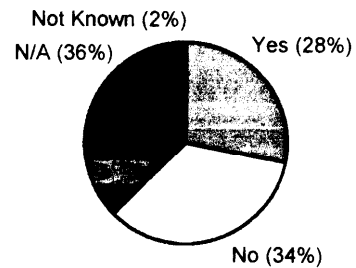
Larger Firms



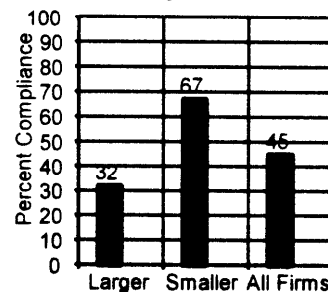
Summary of Responses

Most larger firms offer benefits to spouses, but exclude domestic partners of lesbian and gay attorneys. Most smaller firms simply do not offer health benefits to any of their employees' spouses or domestic partners. Among those smaller firms that offer spousal benefits, most include domestic partners. Overall, about a quarter of the firms currently offer health benefits to domestic partners. Some firms allow domestic partners to participate in something other than full health coverage, such as a dental plan or an employee assistance program. Several firms noted that they are considering the addition of domestic partner benefits.

All Firms



Compliance



*"NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT OFFER ANY HEALTH BENEFITS TO OUR ATTORNEY'S SPOUSES."

Parenting Leave

- ▶ Employers should ensure that all parenting leave policies and part-time policies accommodating parenting are gender-neutral and are not dependent on the biological relationship between the parent and the child.^{*} This will ensure that the families of lesbian and gay employees, which may include children legally adopted only by the employee's partner, including those where a primary caregiver is not the biological parent, are treated in the same manner as are the families of heterosexual employees.

Selected Comments

“ Codified policy specifically applies to women. Neutral as to sexual orientation. Leave for men is case by case.”

—LARGER FIRM RESPONDING “YES”

“ Our corporation offers parenting leave for foster care and adoption. We fully comply with FMLA.”

—LARGER FIRM RESPONDING “YES”

“ May be considered on a case by case basis.”

—LARGER FIRM RESPONDING “NO”

“ Part-time schedules are discretionary. The decision is based on the feasibility of a part-time schedule in individual circumstances without regard to sexual orientation.”

—LARGER FIRM RESPONDING “YES”

“ We have allowed it in the past but are unlikely to do so in the future.”

—LARGER FIRM RESPONDING “OUR FIRM/CORPORATION DOES NOT ALLOW ATTORNEYS TO WORK PART-TIME TO ACCOMMODATE PARENTING”

* The children of lesbians and gay men may be adopted, foster children, the product of donor insemination, or the children of an earlier marriage of one of the parents. It may be that neither parent has a biological relationship to the child, or that a parent without a biological tie is taking primary caretaking responsibility for the child.

Question 19 ?

19 a.—Do your firm or corporation’s parenting leave policies apply to lesbian and gay attorneys, regardless of the biological relationship between attorney and child? *

19 b.—Do your firm or corporation’s policies allow attorneys to work part-time to accommodate parenting apply to lesbian and gay attorneys, regardless of the biological relationship between attorney and child? **

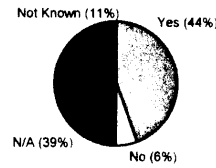
Summary of Responses

19 a.—The vast majority of firms that offer parental leave include lesbian and gay attorneys in their policies without regard to the attorney’s biological relationship to the child. Smaller firms are less likely to provide any parenting leave. Comments suggest that most firms’ parental leave policies do not expressly address this issue.

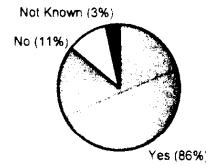
19 b.—Nearly all firms that permit attorneys to work part-time to accommodate parenting reported that they include lesbian and gay attorneys in such policies without regard to an attorney’s biological relationship to the child. Comments suggest that most firms’ policies provide for discretionary, case-by-case decisions on requests to work part-time.

Question 19 a.

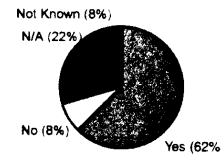
Smaller Firms



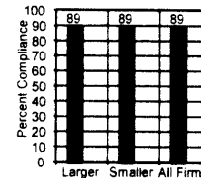
Larger Firms



All Firms

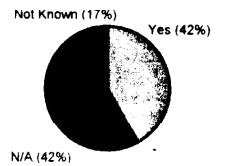


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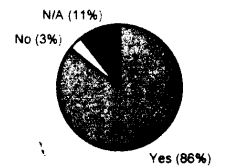


Question 19 b.

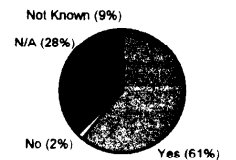
Smaller Firms



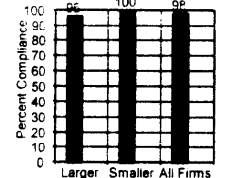
Larger Firms



All Firms



Compliance



* “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED: “OUR FIRM/CORPORATION DOES NOT PROVIDE PARENTING LEAVE.”

** “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED: “OUR FIRM/CORPORATION DOES NOT ALLOW ATTORNEYS TO WORK PART-TIME TO ACCOMMODATE PARENTING.”

RECOMMENDATION 20

Child Care

- ▶ Where child care is provided to employees, it should be made available to employees' non-biological children.

Selected Comments

“ We subsidize emergency childcare through a consortium.”

—LARGER FIRM RESPONDING “YES”

Question **?**
20

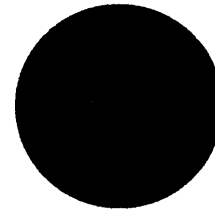
Does your firm or corporation provide childcare for attorneys' children, regardless of the biological relationship between attorney and child? *

Summary of Responses

Only five firms, all of them larger firms, provide child care. Four of those firms responded that it is available to their attorneys' children regardless of biological relationship.

Smaller Firms

Not Known (3%)



N/A (97%)

Larger Firms

Yes (14%)

No (4%)

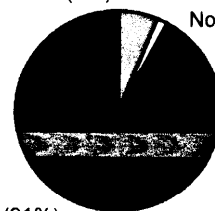


N/A (82%)

All Firms

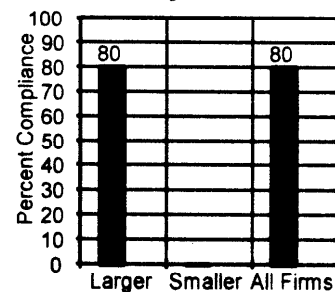
Not Known (2%) Yes (6%)

No (2%)



N/A (91%)

Compliance



* "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT PROVIDE CHILDCARE."

RECOMMENDATION 21

Care-Taking Policies and Bereavement Leave

- ▶ Caretaking leave policies should allow leave time to be taken for the care of domestic partners and non-biological children. Employers should also provide leave time for the death of a domestic partner or immediate relative of such a partner on the same terms that they provide leave time for the death of a spouse or immediate relative of a spouse.

Selected Comments

“ The company does not provide caretaking leave for unmarried partners regardless of sexual orientation.”

—LARGER FIRM RESPONDING “NO” TO QUESTION 21A

“ Issue has never arisen.”

—LARGER FIRM NOT CHECKING RESPONSE TO QUESTION 21A

“ Caretaking leave is available for biological or legally adopted children.”

—LARGER FIRM RESPONDING “YES” TO QUESTION 21B

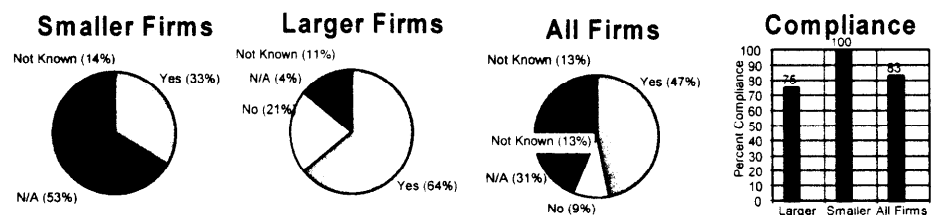
“ If situation arose, yes it would.”

—SMALLER FIRM RESPONDING “YES” TO QUESTION 21C

“ Not codified in policy, but requests considered on a case by case basis.”

—LARGER FIRM NOT CHECKING RESPONSE TO QUESTION 21C, CLASSIFIED AS RESPONDING “NOT KNOWN”

Question 21a.



Question 21

21a.—Do your firm or corporation’s caretaking leave policies apply to lesbian and gay attorneys taking leave to care for their domestic partners just as they do to heterosexual attorneys taking leave to care for their spouses? *

21b.—Do your firm or corporation’s caretaking leave policies apply to lesbian and gay attorneys taking leave to care for their children, regardless of the biological relationship between attorney and child? *

21c.—Do your firm or corporation’s bereavement policies apply to lesbian and gay attorneys taking leave to mourn their domestic partners just as they do to heterosexual attorneys taking leave to mourn their spouses? **

21d.—Do your firm or corporation’s bereavement policies apply to lesbian and gay attorneys taking leave to mourn their children, regardless of the biological relationship between attorney and child? **

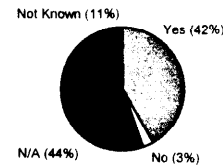
Summary of Responses

A vast majority of larger firms provide caretaking and bereavement leave for their attorneys’ spouses and children. Of these firms, a substantial majority reported that they provide such leave to their gay and lesbian attorneys for their domestic partners and their children, regardless of biological relationship. Compliance was lowest with respect to provision of caretaking leave for lesbian and gay domestic partners. Interestingly, two firms with opposite responses both cited their “compliance with the Family and Medical Leave Act.”

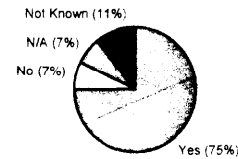
A minority of the smaller firms provide caretaking and bereavement leave. Of these firms, nearly all reported that they provide equivalent leave to their gay and lesbian attorneys.

Question 21c.

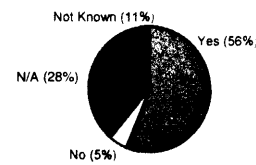
Smaller Firms



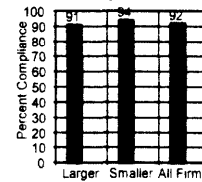
Larger Firms



All Firms

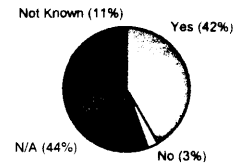


Compliance

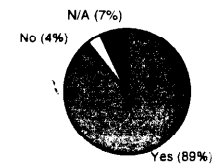


Question 21d.

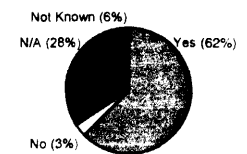
Smaller Firms



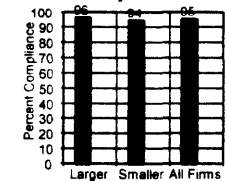
Larger Firms



All Firms

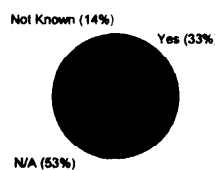


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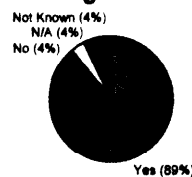


Question 21 b.

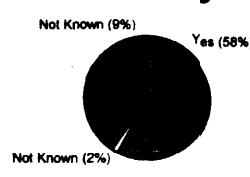
Smaller Firms



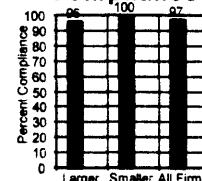
Larger Firms



All Firms



Compliance



* “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED: “OUR FIRM/CORPORATION DOES NOT PROVIDE CARETAKING LEAVE.”

** “NOT APPLICABLE” RESPONSE ALTERNATIVE PROVIDED: “OUR FIRM/CORPORATION DOES NOT PROVIDE BEREAVEMENT LEAVE.”

RECOMMENDATION 22

Relocation Benefits

- ▶ Employers should reimburse new employees for the cost of relocating the employee's domestic partner to the Bay Area from other parts of the country on the same terms as are expenses of an employee's spouse. One nondiscriminatory approach used by a growing number of legal employers, is to distribute to all employees who relocate a lump sum for relocation, with no restriction as to whom the allowance may be applied.

Selected Comments

“ Our firm does not have any formal policy regarding payment of relocation expenses for attorneys and their spouses or domestic partners. The matter is handled on an ad hoc basis. However, the same principles would be applied to the domestic partners of gay and lesbian attorneys as to the spouses and domestic partners of heterosexual attorneys.”

—LARGER FIRM RESPONDING “YES”

“ We do not pay any benefit to non-married partners.”

—LARGER FIRM RESPONDING “NO”

“ Our firm does not pay relocation expenses for anyone.”

—SMALLER FIRM RESPONDING “NO,” BUT CLASSIFIED AS RESPONDING “NOT APPLICABLE”

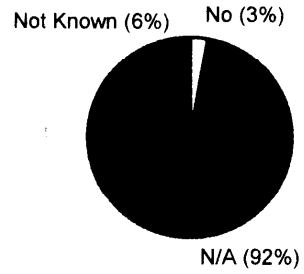
Question **?**
22

Does your firm or corporation pay relocation expenses for lesbian and gay attorneys' domestic partners on the same terms as it pays relocation expenses for heterosexual attorneys' spouses? *

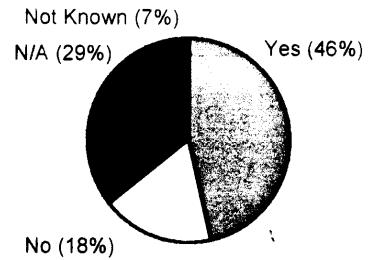
Summary of Responses

- Most larger firms pay relocation expenses for spouses, and a solid majority of these firms extend these benefits to the domestic partners of gay and lesbian attorneys. Smaller firms do not pay for the relocation of either spouses or domestic partners.

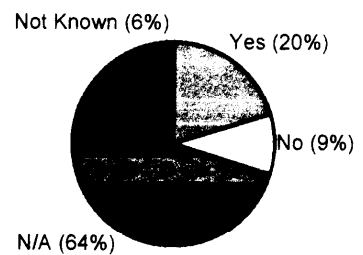
Smaller Firms



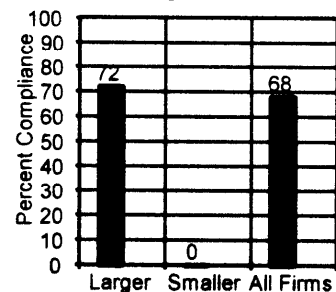
Larger Firms



All Firms



Compliance



* "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT PAY RELOCATION EXPENSES FOR OUR ATTORNEYS' SPOUSES."

RECOMMENDATION 23

Employee Assistance Programs

- ▶ If the employer has an Employee Assistance Program through which various benefits are made available to employees and their families, including drug and alcohol counseling or crisis counseling such as that provided by many employers in the wake of the 1989 earthquake, the definition of “family” for such benefits should include domestic partners and non-biological children.

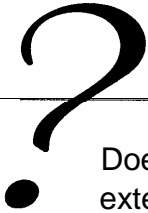
Selected Comments

“While EAP is generally available only to employees and their ‘dependents,’ occasionally it has been made available to other members of the household.”

—LARGER FIRM RESPONDING “OUR FIRM/CORPORATION DOES NOT PROVIDE EMPLOYEE ASSISTANCE PROGRAMS TO OUR ATTORNEYS.”

Question

23

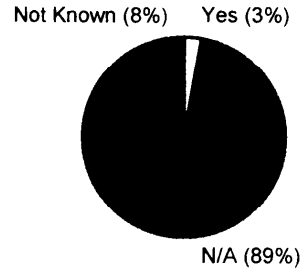


Does your firm or corporation extend Employee Assistance Programs to lesbian and gay attorneys and their households on the same basis as heterosexual attorneys and their households? *

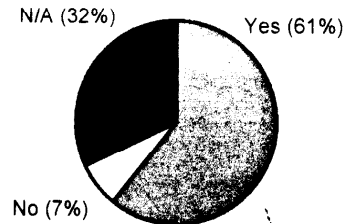
Summary of Responses

- Most of the larger firms reported that they provide Employee Assistance Programs to their attorneys, and the vast majority of these firms include gay and lesbian households. Smaller firms do not provide these services at all.

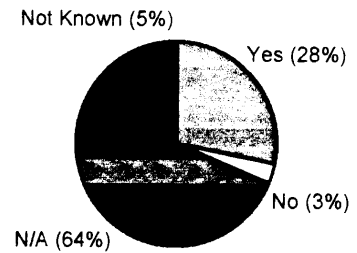
Smaller Firms



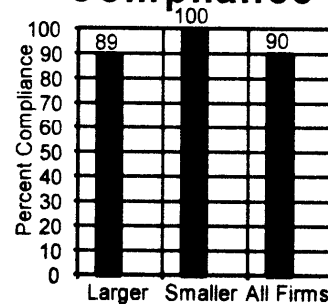
Larger Firms



All Firms



Compliance



* "NOT APPLICABLE" RESPONSE ALTERNATIVE PROVIDED: "OUR FIRM/CORPORATION DOES NOT PROVIDE EMPLOYEE ASSISTANCE PROGRAMS TO OUR ATTORNEYS."

CONCLUSIONS

The prevailing ethic among San Francisco legal employers is to provide lesbian and gay attorneys with professional equality. Indeed, every firm completing this Survey espoused a commitment “to equal employment opportunity (including recruitment, hiring, retention, advancement, and compensation) for gay and lesbian attorneys.”

Universal commitment to equal employment opportunity is not surprising now that the California Labor Code prohibits employment discrimination on the basis of sexual orientation. But firms appeared willing to foster equality in ways that the law may not require. For example, all firms that maintain “spouse lists” of their attorneys’ spouses reported that they will include domestic partners of lesbian and gay attorneys. Also, all firms but one that extend social invitations to attorneys’ spouses reported that the invitations are addressed to “guests” rather than “spouses.”

By no means have all of the Bar Association of San Francisco’s Recommendations for eliminating sexual orientation discrimination been universally adopted. Of course, surveyed firms ranged in size from sole practitioners to San Francisco’s largest attorney-employers, so not all Recommendations were applicable to every firm’s practice. But even among the Recommendations that firms identified as applicable to them, there was substantial variability in the number of firms reporting compliance with each Recommendation. For example, although all responding firms will list a domestic partner in its spouse list, most firms do not provide health benefits for that same partner.

Perhaps the most useful single index of how many firms have adopted each Recommendation is a “compliance rate,” which expresses the percentage of firms adopting the Recommendation among those firms that identified the Recommendation as applicable to their size and practice. The compliance rates themselves, however, should be interpreted with caution, because it is not known how representative the firms responding to this Survey are of all legal employers in San Francisco. Nevertheless, a very high compliance rate may be interpreted as the incorporation of the Recommendation into a prevailing ethic for employing attorneys in San Francisco. Moreover, even if the firms responding to this Survey are not representative of all San Francisco legal employers in all respects, they nevertheless are likely to provide valuable general information about the employment of attorneys in San Francisco. The extent to which firms not responding to this Survey have adopted the Recommendations may be different from the extent to which responding firms have, but it is likely that Recommendations most widely adopted by responding firms have been most widely adopted by non-responding firms, and Recommendations least widely adopted by responding firms also are least widely adopted by non-responding firms. In other words, even if the absolute compliance rates of responding firms are not strictly representative of all San Francisco legal employers, the relative rates of compliance with different Recommendations are likely to be comparable for responding and non-responding firms.

When the Recommendations were promulgated originally they were categorized by subject: General Employment Policies and Practices (Recommendations 1-3); Recruitment and Hiring (Recommendations 4-9); Retention, Advancement, and Compensation (Recommendations 10-17); and Employee Benefits (Recommendations 18-23). For purposes of analyzing the firms’ compliance with the Recommendations, it is useful also to classify the Recommendations into two categories according to whether they address *equal treatment* directly, or instead they address the less tangible goal of creating an atmosphere conducive to diversity.

RECOMMENDATIONS REGARDING EQUAL TREATMENT

Twelve Recommendations may be classified as addressing equal treatment directly.⁹ Firms tended to show higher compliance rates with these Recommendations than with the Recommendations directed more toward fostering diversity.

All firms answered “yes” to the Survey’s first question, which asked whether they had a policy of equal employment opportunity.¹⁰ The vast majority of firms also reported having a policy against bias in performance evaluations, work assignments, and grievance procedures.¹¹ Firms without such a policy reported that they had no *specific* policy addressing these issues. Indeed, although it is unusual for a larger firm not to have a written anti-discrimination policy, only about half of the smaller firms reported that they had such a policy in writing.¹²

Most of the other Recommendations directly addressing equal treatment concerned whether lesbian and gay households are treated equivalently to heterosexual households. As already mentioned, essentially all firms will list domestic partners on spouse lists and extend social invitations to “guests” rather than “spouses.”¹³ Two other Recommendations concern the allowance of time off from work to meet family needs.¹⁴ Compliance with these Recommendations is not universal, but is very high. Compliance is in the same high range for the provision of Employee Assistance Programs to lesbian and gay attorneys and their households and relocation expenses for employees’ domestic partners.¹⁵ In general, only some of the larger firms provide such benefits, but if they provide them for any of their attorneys they usually provide them for their lesbian and gay attorneys. Similarly, only five responding firms reported that they provide their attorneys with childcare, but four of them provide it to lesbian and gay attorneys.¹⁶

The household Recommendation with the lowest compliance rate is nevertheless a very important one—health care benefits for domestic partners.¹⁷ Most firms in San Francisco do not yet provide this benefit, although almost half of the responding firms that reported that they provide health care benefits for spouses reported that they also provide such benefits for domestic partners. Some of the firms that do not provide domestic partners with health benefits commented that they were considering doing so in the future, and one firm reported that it offered lesbian and gay attorneys a cash subsidy in lieu of such benefits. Domestic partner health benefits are an essential component of equal compensation for lesbian and gay attorneys. The Bar Association has adopted a “1995 Model Policy on Domestic Partner Health Benefits” (which is available on request), which includes model documents and a list of insurers that have offered domestic partner coverage to sponsor firms. Further inducement to provide domestic partner health benefits likely will come from San Francisco’s November 1996 ordinance forbidding contractors, including law firms, from doing business with the City and County of San Francisco if they discriminate between legal spouses and registered domestic partners in the provision of health benefits.

The remaining Recommendation that directly addressed equal treatment concerned firms’ paying membership dues for lesbian and gay professional associations on the same basis as other professional associations.¹⁸ Compliance with this Recommendation was quite high.

⁹ Recommendations 1-2, 11-14, and 18-23.

¹⁰ Recommendation 1.

¹¹ Recommendation 11.

¹² Recommendation 2.

¹³ Recommendations 12 and 13.

¹⁴ Recommendations 19 and 21.

¹⁵ Recommendations 22 and 23.

¹⁶ Recommendation 20.

¹⁷ Recommendation 18.

¹⁸ Recommendation 14.

RECOMMENDATIONS FOSTERING DIVERSITY

Eleven Recommendations encourage practices that create equal employment opportunity by creating a professional environment that fosters diversity.¹⁹ Compliance rates for these Recommendations were generally lower than the compliance rates for Recommendations that address equal treatment directly.

Two Recommendations concern recruitment and hiring.²⁰ Most firms have not adopted the Recommendations that they send recruitment letters to lesbian and gay student organizations and have a lesbian or gay man on their hiring committees, because most firms do not send out recruitment letters or have hiring committees. But of those firms that do, compliance with the Recommendations is fairly high.

Four Recommendations reflect the idea that lesbian and gay attorneys may be more likely than other attorneys to be interested in certain issues. Of these, the Recommendation with the highest compliance is the inclusion of “items of particular interest to lesbian and gay employees” in firm newsletters.²¹ This Recommendation, however, was applicable only to three-quarters of the larger responding firms, which were the only ones to have firm newsletters. Compliance is nearly as high for the Recommendation that firm resumes refer to lesbian- and/or gay-related *pro bono* services.²² Compliance is more modest for the Recommendations that legal-issue lunches periodically address issues of particular interest to lesbian and gay attorneys, and that welcome packets for new attorneys include information of particular interest to lesbians and gay men.²³ Fewer than one-third of the responding firms identified these Recommendations as applicable, but approximately half of those reported that they comply with these Recommendations.

Three Recommendations derive from the idea that equal employment opportunity is fostered by an atmosphere of collegiality. Approximately half of the responding firms reported that they “foster opportunities for lesbian and gay attorneys to support each other in the work environment.”²⁴ Substantially fewer firms “provide all associates with in-house mentors.”²⁵ Fewer still reported that they “identify a lesbian- and/or gay-sensitive contact for attorney applicants.”²⁶

Finally, two Recommendations concern diversity training. These Recommendations have some of the lowest compliance rates of the Survey. About half of the firms reported that they train employment interviewers on the appropriate handling of sexual orientation issues.²⁷ Compliance here appears largely to be a function of size: A large majority of larger firms reported that they provide such training, but a large majority of smaller firms reported that they do not. As for the training of attorneys generally on sexual orientation issues, the pattern is similar, with overall compliance substantially lower.²⁸ Compliance is lower still on training non-attorney staff members on sexual orientation issues, with this question having the lowest compliance rate of the whole Survey.²⁹

Comments by responding firms indicate that some firms consider the implementation of many of these diversity-oriented Recommendations unnecessary because of the firms’ general non-discriminatory

¹⁹ Recommendations 3-10 and 15-17.

²⁰ Recommendations 4 and 5.

²¹ Recommendation 15.

²² Recommendation 7.

²³ Recommendations 9 and 17.

²⁴ Recommendation 16.

²⁵ Recommendation 10.

²⁶ Recommendation 6.

²⁷ Recommendation 8.

²⁸ Recommendation 3.

²⁹ *Ibid*

environment. For example, among firms not offering training on sexual orientation issues, one smaller firm commented that: "Everyone knows there's a strong unwritten policy against discrimination." Another firm stated that: "Interviewers are liberal-minded people." Other firms noted that, although there is no formal training, there were many opportunities for attorneys at the firm to discuss issues related to sexual orientation. Similarly, one smaller firm reporting that it did not provide gay- and lesbian-sensitive contacts for recruits commented: "Everyone here is sensitive to these issues." Surely, management's confidence about what "everyone" knows or believes is possible, if at all, only for the smaller firms.

SUCCESS OF THE RECOMMENDATIONS

These Survey results indicate that the Bar Association of San Francisco's Recommendations on how to eliminate sexual orientation discrimination are compatible with the prevailing ethic of San Francisco law firms and corporate legal departments. No Recommendation had a compliance rate less than twenty-five percent. No firm expressed hostility to the Recommendations as a whole or to the goals on which they are based. Most of the Recommendations with low compliance rates appear to be associated with a judgment that the specific Recommendation is not necessary to achieve the goal of equal opportunity in the particular firm environment.

In order to achieve equal opportunity for lesbian and gay attorneys, law firms and corporate legal departments should generally comply with all applicable Recommendations. The biggest challenge for the future appears to be the encouragement of more firms to provide health benefits to the domestic partners of lesbian and gay attorneys (who are not legally permitted to marry) on the same basis as spouses. In addition, firms should resist making assumptions that they need not adopt the Recommendations aimed at fostering diversity on the ground that their employees are all "open-minded." It is an essential component of equal employment opportunity that those both qualified and able to make it through the door feel welcome once they arrive. Reaching that goal will in most cases require not only a non-discriminatory intent but also taking steps to create an environment conducive to diversity.