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Anti-Discrimination Policy Recommendations for Businesses

EqualityToledo's Equality@Work Project seeks to educate area businesses and individuals and advocate for all employers in Toledo and the surrounding geographical areas to implement full and inclusive lesbian, gay, bisexual, and transgender (LGBT) anti-discrimination and anti-harassment policies and practices in their workplace.

RATIONALE

The number of companies and institutions extending their anti-discrimination and anti-harassment policies to include LGBT employees grows every day. The reason for this is simple – eliminating discrimination in the workplace is the fair and right thing for businesses to do! Other good reasons to implement these policies include the following:

- **EQUALITY** - LGBT employees deserve to be treated fairly and on equal terms with other employees.
- **RESPECT** - Extending anti-discrimination policies to include protection for sexual orientation and gender identity advances a company's commitment to respect all employees and creates a workplace free from discrimination.
- **SENSIBILITY** - It makes good business sense to hire, fire, and promote individuals based on the quality of their work rather than on personal characteristics unrelated to job performance.
- **MORALE** - Tolerating any type of discrimination results in low workplace morale, which ultimately undercuts productivity.
- **LIABILITY** - Avoid criminal and/or civil liability. A growing number of state law and local anti-discrimination ordinances explicitly prohibits discrimination based on sexual orientation, gender identity, and gender expression. For example, in the city of Toledo, it is a criminal offense for employers to discriminate against any person with regard to hire, discharge, tenure, upgrading, promotion, terms or conditions of employment, or union membership solely on the basis of sexual orientation.

SAMPLE EQUAL EMPLOYMENT OPPORTUNITY POLICIES

In order to have a clear declaration of anti-discrimination toward LGBT individuals, an employer must include both "sexual orientation" and "gender identity or expression" in its primary anti-discrimination or equal employment opportunity statement.

The following are examples of equal employment opportunity or anti-discrimination policies that include sexual orientation and gender identity or expression.

- **Capital One's Equal Employment Opportunity Policy**

"Capital One prohibits discrimination with respect to the hiring or promotion of individuals, conditions of employment, disciplinary and discharge practices or any other aspect of employment on the basis of sex, race, color, age, national origin, religion, disability, marital status, **sexual orientation, gender identity**, pregnancy or veteran status."

- **Costco's Anti-Discrimination Policy**

"It always has been and continues to be Costco's policy that employees should be able to enjoy a work environment free from all forms of unlawful employment discrimination. All decisions regarding recruiting, hiring, promotion, assignment, training, termination, and other terms and conditions of employment will be made without unlawful discrimination on the basis of race, color, national origin, ancestry, sex, **sexual orientation, gender identity or expression**, religion, age, disability, work-related injury claim, veteran status, political ideology, or any other factor which cannot lawfully be used as a basis for an employment decision. Individuals will be selected for promotion based on skill and ability. Where skill and ability are equal, then length of continuous employment will be the determining factor."

- **IBM's Equal Employment Opportunity Policy**

"Business activities such as hiring, training, compensation, promotions, transfers, terminations and IBM-sponsored social and recreational activities are conducted without discrimination based on race, color, genetics, religion, gender, **gender identity or expression, sexual orientation**, national origin, disability, age or status as a special disabled veteran or other veteran covered by the Vietnam Era Veterans Readjustment Act of 1974, as amended.

These business activities and the design and administration of IBM benefit plans comply with all applicable federal, state and local laws, including those dealing with equal opportunity. IBM also makes accommodation for religious observances, which IBM determines reasonable.

In respecting and valuing the diversity among our employees and all those with whom we do business, managers are expected to ensure that there is a work environment free of all forms of discrimination and harassment.

To provide equal opportunity and affirmative action for applicants and employees, IBM carries out programs on behalf of women, minorities, people with disabilities, special disabled veterans and other veterans covered by the Vietnam Era Veterans Readjustment Act of 1974, as amended. This includes outreach as well as human resource programs that ensure equity in compensation and opportunity for growth and development.

Effective management of our workforce diversity policy is an important strategic objective. Every IBM manager is expected to abide by this policy and uphold the company's commitment to workforce diversity.

ANTI-HARASSMENT POLICIES

Specifically referencing "sexual orientation" and "gender identity or expression" in anti-harassment policies sends a clear message that all employees will be respected and able to work free of any kind of harassment, and that no form of harassment or offensive conduct directed at individuals based on sexual orientation or gender identity, in addition to other classes protected by law, will be tolerated.

BENEFITS

Employers compensate employees through more than just wages and salary by providing benefits such as health insurance and dental care. The traditional benefits structure includes an employee's opposite-sex spouse and children. An ever-growing number of employers, including the majority of Fortune 500 companies, further extend these benefits to lesbian, gay, bisexual, and transgender employees and their families by including an employee's same-sex domestic partner and the partner's children.

Domestic partners are two individuals who are in a long-term committed relationship and are responsible for each other's financial and emotional well-being. Employers can create their own definitions of "domestic partner" for the purposes of benefits eligibility, although they increasingly allow government-based recognition of same-sex relationships to satisfy their requirements. Typically, employers require that the partners are emotionally and financially interdependent, do not have a different domestic partner or spouse, have reached the age of consent and are not related.

Employers should evaluate their entire employee benefits packages for consistent treatment of partners as compared to spouses. In particular, employers should examine the following benefits, all of which can be extended to same-sex partners:

- Sick Leave, FMLA Leave, and Funeral Leave
 - Amend policies to include an employee's domestic partner and the domestic partner's immediate family as a qualifying family members
- Health Benefits
 - Medical, dental, vision, dependent coverage, and COBRA benefits
- Retirement Benefits
 - Retiree healthcare, pension plans, and 401k's
- Other Benefits
 - Relocation/Travel Assistance
 - Education and Tuition Assistance
 - Adoption Assistance
 - Credit Union Membership
 - Disability and Life Insurance
 - Employee Discounts

The cost of extending benefits to domestic partners for most employers has been negligible. A 2005 Hewitt Associates study found that **the majority of employers — 64 percent — experience a total financial impact of less than 1 percent of total benefits cost**, 88 percent experience financial impacts of 2 percent or less and only 5 percent experience financial impacts of 3 percent or greater of total benefits cost. Thus, do not be deterred by the misconception that extending such benefits would be too costly.

Many thanks to the Human Rights Campaign as much of this information was obtained from their website: <http://www.hrs.org/issues/workplace.asp>