



## **2021-22 Law School Campus Climate Survey: An Executive Summary**

April 5, 2022

### **Introduction**

Law schools play a critical role for the entire legal profession. Not only do our law schools train future lawyers in direct legal skills and knowledge, they also establish norms for how the next generations of attorneys view their fellow professionals. These norms guide the profession and set the rights, responsibilities, and courtesies granted to fellow lawyers and all people who come in contact with the legal system. In expanding their understanding of what policies and practices best support their LGBTQ+ constituencies (whether students, faculty, or administrators), law schools have the opportunity to better support those constituencies during their time in the building, and to imbue respect for LGBTQ+ people in all who pass through their doors.

The fourth year of the National LGBTQ+ Bar Association and Foundation’s “Law School Campus Climate Survey” captured data from the 2021-22 school year, in our ongoing assessment of how American Bar Association-accredited law school institutions are supporting their LGBTQ+ populations. We invited all 196 currently ABA-accredited law schools<sup>1</sup> in the US to participate in the Campus Climate Survey, specifically asking them to focus on data and policies pertaining explicitly to their law school building and community, rather than the university at-large (except where the university directly sets the relevant policy or provides the relevant services, such as health care). In addition, for the first time, we invited all California law schools, regardless of accreditation status, to submit survey results. This 2021-22 year saw 103 ABA-accredited schools (a 7.2% decrease over the 2020-21 year<sup>2</sup>) responding along with two non-ABA-accredited California schools.<sup>3</sup> This slight decrease was unsurprising, in what

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<sup>1</sup> The Bar did not include those ABA schools which were on a teach-out plan for the 2021-22 school year.

<sup>2</sup> Sixty-seven law schools participated in the 2018-19 year; 87 schools ultimately submitted responses in the 2019-20 year despite the logistical challenges presented by the COVID-19 pandemic; 111 schools submitted responses in the 2020-21 year during the second year of the pandemic.

<sup>3</sup> Because the number of non-ABA-accredited California schools responding was so low, this summary reflects only the data relevant to ABA-accredited schools. The Bar appreciates that the two responding California schools have evidenced transparency and accountability to their LGBTQ+ constituencies, and hopes that the numbers will grow in future years so that the responses will be statistically significant.

continues to be a period of extreme stress and uncertainties within legal education as the nation enters the third year of the global COVID-19 pandemic and most law schools returned to in-person courses with a shifting landscape of concerns accompanying that return. The full results of the survey, representing data for the 105 participating law schools as well as nondiscrimination statements for all accredited schools, can be found at <https://lgbtqbar.org/climate-survey/climate-survey-2022/>.

The LGBTQ+ Bar gives special thanks to the 38 law schools that have participated for all four years of the Climate Survey, and to the eight ABA-accredited schools and two unaccredited schools joining us for the first time this year. We understand, moreover, how uniquely challenging it has been for all schools during times of remote learning and administration to gather this data and to work internally for new LGBTQ+ supportive policies. We thank every participating school and administrator for your commitment to transparency and accountability with respect to your support of your LGBTQ+ communities.

## **I. Overview**

The results of our survey show that reporting law schools, representing 52.6% of 196 ABA-accredited institutions—care deeply about and are actively working towards diversity and inclusion for their LGBTQ+ populations. The campus climate survey results show the points where specific diversity, equity, and inclusion efforts that benefit LGBTQ+ students and employees are nascent, where they are deepening, and where they are fully embedded in law school policies. The results offer a benchmark for future years, and an opportunity for schools to see and learn from proactive measures being implemented by other schools.

The LGBTQ+ Bar found many points to celebrate in the review of participating schools' responses: Of the 103 responding ABA schools:

- 89 schools (86.4%) offer gender-inclusive bathrooms
- 75 schools (72.8%) include LGBTQ+ specific course offerings
- 86 schools (83.5%) offer funding for LGBTQ+ students to participate in LGBTQ+ focused learning and/or career services opportunities
- All but five (95.1%) offer counseling and therapy services available to their students either through their main university campus or the law school, and most schools' providers are LGBTQ+ trained
- 99 schools (96.1%) have a hate incident/bias policy in place, and most of those schools specifically identify sexual orientation and gender identity/expression as protected categories
- 99 schools (96.1%) allow transgender and nonbinary students who have not legally changed their names to have their name-in-use reflected on applications and forms

- With respect to recruitment efforts, participating schools: a) actively seek out LGBTQ+ students (83 schools); b) annually offer either LGBTQ+-specific scholarships (22 schools) or general diversity scholarships that are available to LGBTQ+ students (50 schools); and c) include mention of identity group support in their welcome packets (77 schools)
- Only one participating school lacks an active LGBTQ+ student group supported by the administration
- All but two participating law schools report that they actively seek to employ diverse staff/faculty/ administrators, including openly LGBTQ+ individuals.

## **II. Key Takeaways**

The results from this year’s survey that warrant deeper examination are similar to last year’s, and are again two-fold. First, we continue to see a notable disparity in the areas where schools are and aren’t yet growing in their recognition of the needs of their transgender community members. As in past years, there is much to herald in the nearly uniform existence of nondiscrimination statements covering sexual orientation and the vast majority covering gender identity, and there continues to be a very high percentage of schools facilitating processes for transgender and nonbinary students’ names-in-use to be reflected on documentation. Yet we continue to see inconsistent coverage and/or understanding of the scope of internal benefits plans and how they cover transition-related necessary health care benefits for transgender and nonbinary employees. Likewise, we see strong reporting of the availability of gender-neutral restrooms and a promising number of schools reporting that they use “All-Gender Restroom” signage, but a deeper look at the comments from schools indicates that they may be considering restrooms to be “gender-neutral” even when the signage indicates “Male/Female” rather than “All-Gender,” and we note that most schools still need to codify a trans-affirming policy applicable to all remaining gendered restrooms and to affix signage that confirms that community members may use the facilities that best match their identities.

Second, while we are gratified to see the numbers improving, we continue to see resistance from schools to implementation of Self-ID processes for LGBTQ+ employees, even as Self-ID processes for students are solidly embraced. Self-ID of LGBTQ+ faculty and administrators is both legal and appropriate; it is also critical to the well-being of those staff members and to that of LGBTQ+ students. We encourage schools to follow the lead of the law firm industry, which has been collecting and reporting sexual orientation and gender identity data for lawyers for many years.

### **A. Meeting the Needs of Transgender Community Members**

#### **1. Nondiscrimination Statements**

The National LGBTQ+ Bar independently collected nondiscrimination statements from all ABA-accredited law schools prior to our first 2018-19 survey, and each year has asked all schools to confirm or correct our understanding of their statements. As of April 1, 2022, only one such law school does not include sexual orientation in its nondiscrimination statement, either explicitly or by reference to applicable state law; all but 12 schools also include gender identity in those statements. While these numbers are strong, the LGBTQ+ Bar urges all law schools to explicitly include these protected classifications in their nondiscrimination statements. Taking this step not only holds law schools accountable for this expression of values, it also sends a message of inclusivity and acceptance to LGBTQ+ and ally community members. Moreover, since the US Supreme Court's June 2020 ruling in *Bostock v. Clayton County*, it is the law of the land for all organizations bound by federal civil rights laws with respect to both employment and education.<sup>4</sup>

## **2. Name-In-Use**

Just over 96% of responding schools indicate that they allow students to designate their name-in-use on admissions applications or post-enrollment forms when it differs from the student's legal name. This option is of course valuable to any student who goes by a name other than their legal name, but is particularly validating and essential for transgender and nonbinary students whose legal name may disclose their transgender status and who may face substantial barriers to undergoing a legal name change.<sup>5</sup>

Students who are addressed by the name, pronouns, and honorifics which reflect their gender identity are significantly more likely to succeed in school, to be fulfilled during their educational experience, and to be free from bullying in the law school environment. When an individual's pronouns or name-in-use are not respected, or when the wrong honorific is used to call on a student in a classroom (such as using "Ms." instead of "Mr." for a transgender man, or any gendered honorific for a nonbinary student), that student can feel disrespected, targeted, and harassed even if the misgendering was not deliberate. Any and all streamlined administrative procedures that enable a student (or a staff/faculty member) to be consistently addressed by their name-in-use, including in classroom settings where using a former name could "out" the student as transgender to the entire class, will lead to better educational and employment outcomes for that individual, and will help keep them safe whilst enabling them to be fully

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<sup>4</sup> Nondiscrimination on the bases of sexual orientation, gender identity, and gender expression is a condition of law school accreditation by the ABA. See ABA Standards and Rules of Procedure, Standard 205 (b) (Feb. 2022). Moreover, law schools which are members of the American Association of Law Schools are required to prohibit discrimination on these bases. See AALS Bylaws, Article 6 § 6-3 (a).

<sup>5</sup> The COVID-19 pandemic presented additional hurdles for many transgender and nonbinary people whose name and gender legal change processes and ability to get new ID documents were delayed as courthouses and other government offices closed for lengthy periods, and reopened with very limited availability.

appreciated as a valued member of their law school community. We appreciate that law schools are recognizing this issue and implementing systems changes to affirm these informal but necessary name changes. As it seems clear that remote learning will remain a feature of law school life going forward in at least some form, we urge schools to ensure that students have the ability to update their video profiles to reflect their name-in-use and pronouns and that professors have access to online class rosters which reflect the students' names-in-use rather than their legal name where those differ.

### **3. Transition-Related Health Care Benefits**

Law schools need to better understand their own benefits plans and how they do or do not address the health care needs of the school's current and prospective transgender community members. Only four of the 103 reporting schools indicated that their benefit plans for employees do not cover benefits relevant to LGBTQ+ employees (and other employees) such as health insurance, family medical leave, parental leave, and nontraditional family planning such as assisted reproduction and/or adoptive benefits — 99 reporting schools do have those benefits. Yet only 56 reporting schools offer transition-related health benefits including hormone therapy, gender counseling, and gender-affirming surgeries to their employees, while 30 reported being unsure as to whether their health care plans include such benefits, and 17 reported that they do not. These numbers are essentially stagnant from last year's reporting. (Happily, of the 52 reporting schools which make benefit plans available to their students, 41 of those do offer transition-related benefits.)

Health care benefits are essential to people's livelihood, and general health care benefits are a part of almost all law schools' reported employee benefits. Moreover, nearly every school reported intentional recruitment of LGBTQ+ employees. Yet if schools do not offer transition-related benefits and basic healthcare that transgender people require, their recruitment efforts ring hollow with respect to transgender and nonbinary prospective employees whose employment packages are less valuable for their needs than those offered to cisgender candidates. (We also note that a number of schools remain unsure whether their plans make certain care techniques such as mammograms, prostate exams, hysterectomies, etc. available to employees of all genders, and are unsure whether they cover the distinct needs of employees in same-sex relationships, including whether assisted reproductive benefits are offered without the need for extended traditional attempts at pregnancy, and whether parental leave policies are equally available for people of all genders.)

The LGBTQ+ Bar encourages those schools that report being unsure whether their plans do include such benefits to utilize the expertise of employment lawyers and Human Resources professionals with LGBTQ+ proficiency to discover whether the plans cover the minimum necessary benefits of hormone therapy, gender counseling, and gender-affirming surgeries. The end goals should be to ensure the health and safety of transgender employees and the

transgender family members of all employees, and to enhance the desirability of the school's employment benefits package to its various stakeholders.

#### **4. Restroom Policies**

While 86% of schools reported offering gender-inclusive restrooms and a good number of those report implementing those with "All-Gender Restroom" signage, we noted that a number of schools may continue to confuse "Male/Female" restrooms (which would be inclusive of those with male and female identities), with truly gender-inclusive restrooms (which are explicitly inclusive of those with any gender identity, including nonbinary and gender nonconforming). Moreover, only 43 reporting schools (42%) have an explicit restroom policy in place providing that transgender and nonbinary students may use gender-segregated restroom facilities that match their gender identity. While it seems that most schools assume that students will do so, we nevertheless encourage schools to codify those informal practices into policies. Having an explicit policy along with signage at each restroom clearly affirming the rights of all students to use the facilities that best match their gender identity is a best practice. This provides certainty to transgender and nonbinary students as well as other gender non-conforming students that the school administration will support their use of the facility best matching their identity, should another person challenge their right to be in that space.

#### **B. Self-ID**

In this fourth reporting year, the Bar is pleased to report that we are witnessing incremental but meaningful progress on one of our most important markers of LGBTQ+ inclusion — the extent to which schools are implementing Self-ID procedures. To be sure, it remains true that most law schools continue not to incorporate Self-ID processes for faculty and administrators, despite being increasingly comfortable having such processes for students. While 82.5% of responding schools (up from 76.4% last year) do have Self-ID processes applicable to students, 65.5% of schools either do not have a Self-ID process for faculty or were unsure whether they do (an improvement, notably, from last year's 73.6% of schools without faculty/staff Self-ID). These numbers do represent notable improvement over the 2020-21 reporting period, and we applaud those schools which are making strides in this key measure.

Given this progress, it is the Bar's hope that more schools are in the process of implementing Self-ID and simply were delayed by the burdens of the pandemic from implementation. To the extent that schools continue to be concerned that asking questions about LGBTQ+ status of employees is either inappropriate or illegal, we stress again that it is entirely appropriate and legal to invite employees to identify their sexual orientation and gender identity in self-identification surveys, provided that the survey both a) is voluntary and b) provides an option of confidentiality, and that it will not be used to impose negative consequences to the employee or others.

All schools currently collect and regularly report data regarding race and gender of their employees and students. Asking about sexual orientation and gender identity is also appropriate and lawful. Surveys of faculty and administrators can be conducted to invite law school employees to be counted and, if desired, to publicly self-identify their sexual orientation and gender identity, or to remain confidential if preferred. The continued expression of concern about privacy and appropriateness regarding a survey which could readily be conducted in a manner that would be both voluntary and optionally confidential leads to the conclusion that many school administrators continue to perceive that there is a stigma associated with LGBTQ+ status. Yet that conclusion is hard to reconcile with the much broader comfort schools demonstrate with Self-ID for students, despite the fact that those students' professional futures in the law are entirely dependent upon their ability to be successful and accepted within the law school community, including by the faculty. Moreover, 98% of schools report that they are actively recruiting LGBTQ+ faculty; the success of those efforts can only be meaningfully measured through Self-ID.

Every law school works closely with the National Association of Law Placement (NALP) as their career services teams work diligently to place students with employers. NALP has been collecting data since 2004—a full 18 years—from our nation's top law firms about the number of LGBTQ+ summer associates, associates, partners, and of counsel attorneys. Those firms report that data voluntarily, and would not do so if it were an inappropriate or illegal datapoint to gather from employees. NALP's data demonstrates that sexual orientation and gender identity are appropriate and lawful data to gather from employees, provided that safeguards are implemented.<sup>6</sup>

LGBTQ+ law students thrive when LGBTQ+ faculty and administrators are seen and are thriving. Out LGBTQ+ faculty, especially those of color, serve as powerful examples of success and as potential mentors for students. These faculty—who may have practical and personal experience that not every law school's Career Services office will have—can help support students and student group members. They may give advice about school itself and about career planning to students who are struggling with acceptance or are unsure whether being out is safe. Self-identified LGBTQ+ faculty can be invited to advise LGBTQ+ students and student groups. They can be persuasive recruiters during the admissions process, providing quotes and profiles on admissions materials to ensure that LGBTQ+ students feel welcome. Just as faculty of color and women faculty are invited to support and recruit students of color and women students, LGBTQ+ faculty have a key role to play to ensure the success of LGBTQ+ students.

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<sup>6</sup> See [NALP 2021 REPORT ON DIVERSITY IN U.S. LAW FIRMS](#), Jan. 2022, Tables 13 & 14.

It is likewise important for the success of the faculty and administrators themselves to know that they are valued and appreciated for the diversity and perspective they bring to the law school community, and to have their needs identified and served. The needs of people who aren't counted are often overlooked. (For example, assuming that a school has no transgender community members can lead to the belief that appropriate benefits packages and pronouns policies are not necessary; this may be incorrect, and alternatively even if true, does a significant disservice to the first transgender person to join the unprepared community.) Moreover, while some institutions may think that they are meeting community needs because they know from word of mouth that they have LGBTQ+ faculty and staff, those assumptions do not replace a methodical Self-ID process and may lead to the very invasions of privacy that the school is attempting to avoid, as well as to harmful outcomes for both the employees and for the school's diversity goals. (For example, assuming a bisexual person is straight or gay/lesbian based solely on the identity of their current partner/spouse leads to bi-erasure and may create embarrassing moments when the relationship changes; assuming that someone is cisgender may be very harmful to them if they are in fact transgender and need benefits that your school does not provide.) The best way to ensure that your faculty and staff's best interests are met is to invite them to identify as they choose.

The Bar's strong hope is that all law schools which are committed to full equity and representation for their LGBTQ+ community members will become comfortable asking about sexual orientation and gender identity in an appropriate and lawful way just as they do now regarding racial identity and gender, and will recognize that this data is only stigmatizing when it is treated as such.<sup>7</sup>

## **Conclusion**

The National LGBTQ+ Bar Association and Foundation is heartened by the ever-increasing number of our nation's law schools that are both committed to reviewing and updating their policies and practices impacting LGBTQ+ community members, and to ensuring that LGBTQ+ law students, faculty, and administrators are safe and welcomed on their campuses. The LGBTQ+ Bar's Campus Climate Survey serves as a yardstick by which to measure LGBTQ+ inclusion in legal education, while our newly-updated "[LGBTQ+ Best Practices for Law Schools: A Guide to Institutional Equity](#)" provides guidelines to help schools meet their own

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<sup>7</sup> The 2021-22 Campus Climate Survey also asked questions about LGBTQ+ faculty and administrators of color, reflecting the Bar's commitment to ensuring that the full breadth of the LGBTQ+ community is considered when data is collected and when best practices and policies are implemented in law schools. As with prior years' results, the number of LGBTQ+ faculty and administrators of color seems low; however, it remains difficult to know how to compare those numbers to demographic data given that so few law schools currently collect sexual orientation and gender identity Self-ID information from their faculty and administrators. As Self-ID measures increase at schools, we hope to see a corresponding increase in the number of reported LGBTQ+-identified faculty and administrators of color.



goals for support and inclusion. The Bar appreciates the efforts that leaders in law school diversity, equity, and inclusion are making to assure that all LGBTQ+ law students thrive in their legal education and in their legal career path, and that LGBTQ+ faculty and administrators are supported to bring their best to their buildings, classrooms, and scholarship. We encourage law school administrators and faculty to reach out to the Bar for best practices and support at any time.