



## Goal III Report for 2010-2011

*Third Annual Review of the Status of Lesbian, Gay, Bisexual, and Transgender Participation at the American Bar Association*

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# About the ABA

The American Bar Association was founded in 1878 by 100 lawyers from 21 states. Today, the ABA has more than 400,000 members, making it the largest professional voluntary organization in the world. The ABA provides law school accreditation, continuing legal education, information about the law, programs to assist lawyers and judges, and initiatives to improve the legal system for the public. The ABA's Goals are to Serve Our Members, Improve Our Profession, Eliminate Bias and Enhance Diversity, and Advance the Rule of Law.

To My ABA Colleagues:

The Commission on Sexual Orientation and Gender Identity (SOGI) is pleased to present the third annual review of the American Bar Association's efforts towards inclusiveness of lesbian, gay, bisexual, and transgender (LGBT) individuals. The Commission is grateful to the members and sections that participated in the Goal III survey. Your participation demonstrates your commitment to Goal III, that is to "eliminate bias and enhance diversity." We understand that discussions and reporting of diversity data can often generate anxiety, as well as surface concerns about privacy and sensitivity. Ultimately, however, gathering information about access and participation of openly LGBT people within the ABA is vital information and we continue to encourage all ABA entities to work to improve the collection of Goal III information. Without accurate reporting on the diverse members of our Association we will have no means of understanding our successes, nor of understanding where more work is necessary as we sustain and grow our membership. We appreciate the commitment of the ABA and its entities in this effort.

In addition to reporting on the involvement of openly LGBT people within the ABA, the Commission report also contains a brief review of the SOGI Commission's work to foster greater LGBT participation in the legal profession and ABA involvement in efforts to expand diversity in other ways, with a focus on the LGBT experience. Many different ABA entities and affiliates have worked for LGBT inclusiveness through, for example, CLE programs focused on issues impacting LGBT people.

As with any journey, there have been starts and stops along the way; still, the overall momentum has been forward. We are pleased to be a part of this effort.

Thank you for reviewing the report. We welcome and encourage your feedback.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Joslin', with a long horizontal flourish extending to the right.

Courtney G. Joslin  
Chair

# About the Commission on Sexual Orientation and Gender Identity

The Commission on Sexual Orientation and Gender Identity (SOGI Commission) was created in August 2007 by approval of the Board of Governors of the ABA. Its mission is to promote full and equal participation in the legal profession by persons of differing sexual orientations and gender identities. Through education efforts, policy development, building relationships with leaders in the profession, and other activities, the SOGI Commission seeks to secure equal treatment in the ABA, the legal profession, and the justice system without regard to sexual orientation or gender identity, to remove barriers to professional advancement, and to promote diversity.

Since its creation, the SOGI Commission has conducted programs on the experiences of lesbian, gay, bisexual, and transgender (LGBT) persons in the legal profession and the justice system; performed data analysis of constituency participation within the ABA; become a leading advocate on issues concerning sexual orientation and gender identity; collaborated with many other ABA entities and affiliated entities by co-sponsoring events and policy matters on LGBT diversity, inclusion, human, and civil rights issues; educated others about LGBT issues; and served as an informational resource for the ABA, members of the legal profession and justice system, and the general public.

Here is a sampling of some of the SOGI Commission's work during the last bar year:

- Using information gathered from focus groups and a public hearing, the SOGI Commission drafted a best practices publication which offers practical guidance and information on how to attract and retain LGBT employees.
- The SOGI Commission partnered with other ABA entities to produce programming intended to educate attorneys about how employers can ensure that their workplaces are welcoming and supportive for all attorneys.
- The SOGI Commission produced its second Goal III report.
- The SOGI Commission partnered with other ABA entities to enact new policy recommendations and to implement existing policy recommendations related to LGBT issues. In particular, working closely with IRR, the SOGI Commission assisted with Recommendation 111 which urges state, territorial and tribal governments to eliminate all of their legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry. This recommendation was overwhelmingly approved by the ABA House of Delegates in August 2010. The Commission also helped to draft letters to Congress and to the Department of Defense urging the repeal of the military's Don't Ask, Don't Tell policy.

## What Is SOGI Doing?

The SOGI Commission continues to be a voice, a home, and a resource for LGBT members and practitioners, persons and groups interested in LGBT issues, and an expert for ABA and non-ABA entities seeking information and guidance on the development of LGBT-focused programming. Our goal is to advocate, educate, and collaborate on legal issues affecting the LGBT community.

Through our initiatives we: 1) work to remove the barriers that prevent the full and equal participation of LGBT people in the ABA, the profession and the justice system; 2) advance the human and civil rights of LGBT persons; 3) serve as a leading resource on LGBT legal topics; and 4) ensure that the ABA is, and is perceived to be, a leader on diversity in the legal profession.

One of the ways that the SOGI Commission works to ensure full and equal participation of LGBT people in the legal profession and in the justice system is by working with other ABA entities on expanding and developing policy with regard to LGBT issues. In its three years of existence, the SOGI Commission has partnered with other groups in support of various ABA policy recommendations.

The SOGI Commission co-sponsored an IRR recommendation that would permit a U.S. citizen or lawful permanent resident to sponsor his or her same-sex partner for permanent residence in the United States. This recommendation was approved by the ABA House of Delegates in February 2009.

Also in 2009, the SOGI Commission co-sponsored a recommendation urging Congress to repeal Section 3 of the Federal Defense of Marriage Act, which denies federal marital benefits and protections to lawfully married same-sex spouses. This recommendation was approved by the ABA House of Delegates in August 2009.

Most recently, the SOGI Commission worked closely with the Section of Individual Rights & Responsibilities in support of the adoption of Recommendation 111, which urged state, territorial and tribal governments to eliminate the legal barriers to civil marriage between two persons of the same sex who are otherwise eligible to marry. This resolution was cosponsored by a long and diverse list of ABA entities, state and local bar associations, and affiliated entities, and was supported by a long list of ABA leaders, including the current President and the immediate and many other past Presidents.

The SOGI Commission also worked to implement existing ABA policy. For example, we collaborated with several other entities on crafting a letter to Congress, signed by former ABA President, Carolyn Lamm, urging the repeal of Don't Ask, Don't Tell. We also have worked to have letters sent to Congress supporting the Employment Nondiscrimination Act, which would prohibit employment discrimination on the bases of sexual orientation and gender identity.

In order to educate members and other attorneys about issues affecting LGBT people, the SOGI Commission regularly produces educational programming including CLEs. At the Annual Meeting in San Francisco, the Commission co-sponsored a Presidential Showcase CLE entitled, "Same-Sex Marriage—Moving Beyond State Courts." Historically, most of the litigation regarding same-sex couples and marriage has involved state constitutional claims. However, a number of lawsuits raising federal constitutional claims relative to same-sex couples and marriage have begun to proliferate. The Presidential Showcase CLE program highlighted some of these cases, including the pending *Perry v. Schwarzenegger* case, in which the plaintiffs argued that excluding same-sex couples from the right to marry, or stripping same-sex couples of the right to marry, violates various federal constitutional principles. The panel also discussed *Gill v. Office of Personnel Management*, in which the plaintiffs argued that denying federal recognition of valid marriages between same-sex couples violates the federal constitution. As luck would have it, the *Perry* decision came down the day before our CLE presentation, which enabled us to attract several San Francisco media outlets to our program.

Another one of the SOGI Commission's current projects related to judicial education. In December 2010, in conjunction with the UCLA School of Law Williams Institute, the SOGI Commission coordinated a ½

day judicial training session for the superior judges of the District of Columbia on issues related to same-sex relationships, prompted by the fact that the District permits same-sex couples to marry. We have plans to do a similar training for New York judges in the spring of 2011.

In furtherance of its mission to promote full and equal participation in the legal profession by persons of differing sexual orientations and gender identities, the SOGI Commission provides a plethora of resources on LGBT-related topics. These resources are available on our website at [www.abanet.org/sogi](http://www.abanet.org/sogi).

The SOGI Commission contributes to the ABA's annual Goal III Report. We participated in the Goal III reporting cycle for the first time in 2009, with no prior years' data to use for comparison. This provided us with a benchmark for our portion of the 2010 report, which is currently available on the Commission's website. Additionally, the SOGI Commission has provided guidance to other ABA entities on matters relating to Goal III, including the best ways to solicit LGBT-related data, the most effective use of surveys and questionnaires to obtain diversity information and the most appropriate way to craft language when seeking statistics on LGBT participation.

## **Tips for Increasing Diversity and Inclusion**

The Goal III report provides an opportunity for ABA entities to reflect on their success in furthering the ABA's goal of increasing inclusion and diversity in the ABA and in the profession. To assist entities in their future diversity efforts, the SOGI Commission provides the following list of tips. We hope they are of assistance to others.

1. Create a plan that outlines your entity's specific diversity goals. Include detailed action steps, timelines, and accountability requirements. Communicate your diversity goals to every member of your entity, and clarify your expectations for the accomplishment of these goals. Disseminate a copy of the diversity plan to every member in leadership. Ensure that all entity leaders understand their accountability for the successful implementation of the plan. (The Criminal Justice and Litigation sections have developed very comprehensive diversity plans of this type.)
2. Appoint a diversity director to oversee the implementation of the diversity plan.
3. Develop programming (e.g., fellowships) directed at diverse law students and practitioners that will provide them with opportunities to become immersed in the substantive work of the entity. Participants in this type of programming often continue their involvement in the entity long after the fellowship period is over. (The Business Law and Tort, Trial & Insurance Practice sections and General Practice, Solo, and Small Firm Division sponsor very successful fellowship programs.)
4. Publish articles on topics of concern to LGBT constituencies. (The Family Law Section has found success with this type of publication.)
5. Establish an LGBT Committee to promote opportunities for LGBT members. (The Criminal Law, State & Local Government, and Litigation sections have established very active LGBT committees.)
6. Collaborate with other ABA and non-ABA entities to co-sponsor LGBT-related programming and projects. (The Individual Rights & Responsibilities and Science & Technology sections, Judicial Division, Forum on the Construction Industry and SOGI Commission have successfully partnered with other groups.)
7. Host panels and CLEs on topics and issues of interest and concern to LGBT audiences. (The Labor & Employment Law, Litigation, State & Local Government and Dispute Resolution sections have presented timely programs on substantive LGBT issues.)
8. Develop forms and systems for data collection to identify and recruit LGBT members and to track LGBT participation. (The Labor & Employment Law Section has implemented such a system.)
9. Engage in outreach to LGBT law student organizations and bar associations.
10. Recruit diverse speakers, panelists and authors.

# Goal III Background

Diversity efforts at the American Bar Association have taken many forms. Among the most visible are the Association's stated diversity goal (formerly Goal IX; now Goal III) and its four diversity commissions, which focus on discrete groups. At the 1986 ABA Midyear Meeting, William Neukom, then Secretary of the House of Delegates, presented a report with recommendations to expand the goals of the ABA. He moved that the House approve the Board of Governors recommendation to adopt a Ninth Goal, which read:

*Be It Resolved*, That the American Bar Association adopts a ninth goal . . .

GOAL IX: To Promote Full and Equal Participation in the Profession by Minorities and Women.

The Chairman of the Board of Governors' Task Force on Minorities, Calvin H. Udall of Arizona, on the floor of the House, commented "Minorities in this recommendation include all minorities, whether they be physically handicapped, Blacks, Hispanics, Mexican Americans, any nationality, regardless of national origin or anything else."<sup>1</sup>

Although Goal IX's initial efforts, and those of subsequent Commissions (the Commission on Opportunities for Minorities in the Profession – later the Commission on Racial and Ethnic Diversity-formed in 1986; and the Commission on Women in the Profession, formed in 1987) focused on racial and ethnic minorities and women, diversity efforts soon expanded to include lawyers with disabilities and later, gay, lesbian, bisexual and transgender lawyers. Specifically, in 1999, Goal IX was reworded to include "persons with disabilities," and in 2007 to include "persons of differing sexual orientations and gender identities." In 2007, the ABA Commission on Sexual Orientation and Gender Identity (SOGI) was created.

In 2008 the House of Delegates voted to revise the Association's Goals, to ensure that the rights of other underrepresented groups could be addressed. The new Goal III aims to "[e]liminate bias and enhance diversity." Goal III's objectives are to:

1. Promote full and equal participation in the association, our profession, and the justice system by all persons.
2. Eliminate bias in the legal profession and the justice system.

## Goal III Reporting at the Association

In 1995, nearly ten years after the ABA established its first diversity commission, the Commission Opportunities for Minorities in the Profession issued the first Goal III (then Goal IX) report. The Report is now issued on a yearly basis. Since 1995, the content of the Report has expanded along with the ABA's approach to diversity and inclusion. At present, each of the ABA's major diversity entities - the Commission on Racial and Ethnic Diversity, the Commission on Mental and Physical Disability Law, the Commission on Women in the Profession and the Commission on Sexual Orientation and Gender Identity - produce a "Goal III" Report Card to measure the "full and equal participation" in the association's leadership by *all* persons.<sup>2</sup> The 2008-2009 bar year was the first in which the SOGI Commission participated in the reporting and evaluation, enabling the ABA to assess its development of leadership among its openly lesbian, gay, bisexual and transgender members.

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<sup>1</sup> 111 ABA Annual Report 31 (Midyear 1986) (citing Calvin H. Udall).

<sup>2</sup> The Center for Legal Education produces a report as well.

# Goal III Methodology

The Goal III Report primarily measures the participation of the ABA's volunteer leaders;<sup>3</sup> it does not reflect the diversity of its staff or overall membership. Providing data for the report is voluntary. The data collection methodology has been re-designed over the years to its current format based on a Microsoft Excel spreadsheet. An identical survey was sent in September 2010 to each ABA-entity staff director of each section, division, forum, and other entity that produced CLE materials with a deadline of November that year. Definitions of terms and explanations were also included.

The survey consisted of both quantitative and qualitative questions. The numeric grids were designed by the participating diversity entities and the Center for CLE and asked for the composition of the entities' various leadership, committees, speakers, and general membership positions.<sup>4</sup>

In addition to showing the numbers of diverse individuals within an entity's leadership cadre and among its presenters and with regard to other CLE efforts, each of the four diversity entities and the Center for CLE designed specific questions asking about specific diversity inclusiveness of the entities. The questions specific to LGBT participation were:

What efforts -- programs, projects, policies, committees or other activities -- has your entity implemented, initiated, or undertaken to support, advance, and/or retain sexual orientation and gender identity diversity in your entity, the ABA, and the legal profession?

Please describe the results that the above efforts have had in increasing sexual orientation and gender identity diversity within your entity, the ABA, and the legal profession.

The survey instrument was designed to ensure clear and consistent reporting by those who are charged with providing information. To assist in this effort, the survey included a list of definitions. The SOGI Commission provided the following:

"Sexual orientation": an individual's physical and/or emotional attraction to the same and/or the other gender. "Heterosexual," "bisexual" and "homosexual" are all sexual orientations.

"Gender identity": a person's innate, deeply felt psychological identification as male or female, which may or may not correspond to the person's body or designated sex at birth (meaning what sex was originally listed on a person's birth certificate).

"Lesbian": a woman whose physical and/or emotional attachments are to women.

"Gay": a man whose physical and/or emotional attachments are to men.

"Bisexual": a man or woman whose physical and/or emotional attractions and attachments are to persons of both genders.

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<sup>3</sup>Though most participants of ABA activities are ABA members, membership is not a requirement.

<sup>4</sup>The positions asked were: Chair, Chair-Elect, Primary Leadership/Officers, Council or Forum Governing Division Chairs, Committee Vice Chairs, Additional Committee Leadership, Other Leadership, Nominating Committee Chair, Nominating Committee, Subcommittee Chairs, Programming Faculty, Publication Authors, and House of Delegates.

"Transgender": a person who experiences and/or expresses their gender identity differently from that which most people expect (e.g., by identifying or referring to themselves as having a gender other than that listed on the individual's original birth certificate, or by physically changing their sex.)

"Heterosexual": a man or woman whose physical and/or emotional attachments are to persons of the other gender.

To encourage accurate and active participation by the entities, a non-response (no number entered) would default to a certain value. For example, if a member did not identify his/her race, that person was considered "Caucasian." With respect to sexual orientation and gender identity, the default values were "heterosexual" and "non-transgender". The implementation of the survey was determined by each individual staff director. There was no standard implementation methodology.

Some staff directors filled out the survey; others designated a staff member to do so. Each entity's staff had complete discretion in all of the Goal III reporting. In some entities, the staff director or other staff member communicated directly with the leadership about the survey, in others the entity Chair sent a message to the leadership.

## **Report Introduction**

The full inclusion of historically and disproportionately underrepresented groups in the legal profession remains an elusive goal. However, we continue to chip away at the entrenched barriers that have prevented practitioners of diverse backgrounds from achieving parity with their non-diverse counterparts, particularly in leadership circles. The American Bar Association's longstanding support of the advancement of diversity has been a catalyst for change in this critical area. However, change starts at home. Accordingly, the ABA annually engages in honest self-examination and critique of its own progress relative to the quantity *and* quality of opportunities for its diverse members, particularly in leadership.

This is our third year of reporting Goal III statistics on the progression of lesbian, gay, bisexual and transgender (LGBT) members into positions of authority within the Association. Although we have a long way to go before full inclusion and participation of LGBT members becomes a reality, we continue to be encouraged by the ever-increasing number of ABA entities reporting the involvement of LGBT practitioners in their leadership ranks. Thoughtful planning and targeted recruiting as well as the development of focused diversity strategies have enabled these entities to attract, retain and nurture LGBT members. It is through these efforts that LGBT members have begun to move into entity leadership positions in greater numbers.

## **Quantitative Reporting for 2010-2011**

Fifty-eight ABA entities responded to our call for Goal III data this year. Twenty-six of the 58 reported that they had no members in leadership who identified as lesbian, gay, bisexual or transgender. However, 32 entities reported the participation of one or more LGBT members in leadership. This represents a 52% increase from the 21 entities reporting LGBT members in leadership positions in 2009-10. Five of the 32 entities indicated the participation of transgender members, an increase from the three entities reporting such members in 2009-10. The two tables below show a comparative breakdown of LGBT participation numbers by entity in 2010-11 and 2009-10.

**2010-11 LGBT Participation in Leadership by Entity (in descending order)**

<b>Entity</b>	<b>Lesbian/Gay/Bisexual</b>	<b>Transgender</b>
Litigation	61	0
Labor & Employment Law	60	1
Tort Trial & Insurance Practice	34	0
Young Lawyers Division	18	0
Individual Rights & Responsibilities	14	2
Dispute Resolution	12	0
Environment, Energy & Resources	10	0
Commission on Sexual Orientation & Gender Identity*	10	2
General Practice, Solo & Small Firm	7	0
Intellectual Property Law	7	0
Law Student Division	7	0
Antitrust Law	6	0
Business Law	4	0
Criminal Justice*	4	0
Health Law	4	0
National Conference of State Trial Judges (Judicial Division)	4	0
Science & Technology*	4	0
Commission on Domestic Violence	3	2
Family Law	3	0
Commission on Law & Aging	2	0
Commission on Women in the Profession*	2	0
Judicial Division*	2	0
Law Practice Management	2	0
Lawyers Conference (Judicial Division)*	2	0
Real Property, Trust & Estate Law*	2	0
Standing Committee/National Forum on Client Protection*	2	0
Administrative Law Judges Conference (Judicial Division)*	1	0
Center for Continuing Legal Education*	1	0
Government and Public Sector Lawyers*	1	0
Standing Committee on Election Law*	1	0
Taxation	1	0
<b>Total</b>	<b>291</b>	<b>7</b>

\*Entities that did not report LGBT participation in 2009-10.

**2009-10 LGBT Participation in Leadership by Entity (in descending order)**

<b>Entity</b>	<b>Lesbian/Gay/Bisexual</b>	<b>Transgender</b>
Litigation	34	0
Tort Trial & Insurance Practice	34	0
Labor & Employment Law	26	0
Individual Rights & Responsibilities	14	1
Young Lawyers	13	0
General Practice, Solo & Small Firm	11	0
Health Law	8	1
Intellectual Property Law	7	0
Dispute Resolution	5	0
International Law	5	0
Public Contract Law	5	0
Family Law	4	0
National Conference of State Trial Judges	4	0
Environment, Energy & Resources	3	0
Law Student Division	3	0
Commission on Law & Aging	2	0
Law Practice Management	2	0
Antitrust Law	1	0
Commission on Domestic Violence	1	1
State & Local Government Law	1	0
Taxation	1	0
<b>Total</b>	<b>184</b>	<b>3</b>

There are 12 entities reporting this year that did not report last year: the Commission on Sexual Orientation and Gender Identity, Criminal Justice, Science & Technology, Commission on Women in the Profession, Judicial Division, Lawyers Conference, Real Property, Trust & Estate Law, the Standing Committee/National Forum on Client Protection, the Administrative Law Judges Conference, the Center for Continuing Education, Government and Public Sector Lawyers and the Standing Committee on Election Law. Likewise, there are three Sections that reported in 2009-10 that did not report this year: International Law, Public Contract Law and State & Local Government Law. In 2009-10, these latter three groups indicated 11 lesbian, gay or bisexual leaders. The addition of new reporting entities is a positive sign that diversity efforts are broadening to include LGBT practitioners. Ultimately, we strive for 100% compliance in reporting from year-to-year. It is through consistency in reporting that true progress can be evaluated. However, until that time, we are able to glean a snapshot of incremental movement forward across the Association.

In 2009-10, the Litigation, Tort, Trial & Insurance Practice, Labor & Employment Law and Individual Rights & Responsibilities sections, and the Young Lawyers and General Practice, Solo & Small Firm divisions boasted the highest levels of LGBT leadership involvement. Litigation, Tort, Trial & Insurance Practice, Labor & Employment Law, Individual Rights & Responsibilities and the Young Lawyers Division are again at the top of the list. However, this year they are joined by Dispute Resolution, Environment, Energy & Resources and the Commission on Sexual Orientation and Gender Identity.

Based on the data reported in the above-referenced tables, there are now a total of 298 openly LGBT members participating in entity leadership compared to 187 in 2009-10. This represents a 59% increase in LGBT participation. Further, there are seven members identified as transgender currently participating in entity leadership compared to just three in 2009-10 (representing a 1.3% increase). Seven of the entities show an increase in the number of lesbian, gay and bisexual leaders from 2009-10, including Litigation (27 new members), Labor & Employment Law (34 new members), the Young Lawyers Division (five new members), Dispute Resolution (seven new members), Environment, Energy & Resources (seven new members), the Law Student Division (four new members) and the Commission on Domestic Violence (two new members). The number of lesbian, gay and bisexual leaders in Tort Trial & Insurance Practice, Individual Rights & Responsibilities, Intellectual Property Law, the National Conference of State Trial Judges, the Commission on Law & Aging, Law Practice Management and Taxation maintained at 2009-10 levels. General Practice, Solo & Small Firm, Health Law and Family Law all show a decrease in the number of lesbian, gay and bisexual members in leadership with the loss of four positions each. Three entities demonstrate an increase in the involvement of transgender members in leadership, including Labor & Employment Law (one new member), Individual Rights & Responsibilities (one new member) and the Commission on Domestic Violence (one new member). Health Law shows a loss of one transgender member in leadership.

**Total 2010-11 LGBT Participation in Leadership by Position**

<b>Type of Leadership Position</b>	<b>Number of LGBT Members</b>
Chair	1
Chair-Elect	1
Primary Leadership/Officers	5
Council or Forum Governing Committee	11
Committee Chairs or Forum Division Chairs	29
Membership	67
Committee Vice Chairs	16
Additional Committee Leadership	31
Other Leadership	13
Nominating Committee Chair	1
Nominating Committee	3
Subcommittee Chairs	6
Programming Faculty	82
Publication Authors	31
House of Delegates	1
<b>Total</b>	<b>298</b>

## Total 2009-10 LGBT Participation in Leadership by Position

Type of Leadership Position*	Number of LGBT Members
Chair	1
Chair-Elect	0
Primary Leadership/Officers	1
Council or Forum Governing Committee	17
Committee Chairs or Forum Division Chairs	26
Committee Vice Chairs	15
Additional Committee Leadership	24
Other Leadership	11
Nominating Committee Chair	1
Nominating Committee	2
Subcommittee Chairs	9
Programming Faculty	26
Publication Authors	22
House of Delegates	1
<b>Total</b>	<b>156</b>

\*Note: The Membership Committee was not included in this table in 2009-10.

A comparative analysis of the two tables above indicates a 91% increase in the overall number of leadership positions held by LGBT members from 2009-10 to 2010-11. Lesbian, gay, bisexual and transgender practitioners are represented in every available leadership category this year. However, the bulk of LGBT members in leadership serve in the Programming Faculty, Membership, Additional Committee Leadership, Publication Authors and Committee Chairs or Forum Division Chairs categories. Although the number of LGBT members in high-level positions such as Chair, Chair-Elect and Primary Leadership increased from three to seven this year, there is still significant room for growth in these areas. Our long-term goal is to see a more representative number of LGBT members move into these upper echelon positions that wield greater decision-making and policy-making authority.

The Office of the President has submitted Goal III reporting data indicating notable LGBT leadership participation for the last three years. However, the information does not delineate LGBT member participation by position; therefore, we did not include these numbers in the above-referenced tables. The Office of the President reports that LGBT practitioners provide leadership on various Standing Committees, Special Committees, Commissions and other entities. The number of LGBT members in leadership breaks out as follows:

### Office of the President

	President Stephen N. Zack	Former President Carolyn B. Lamm	Former President H. Thomas Wells Jr.
<b>Sexual Orientation</b>			
Lesbian/gay/bisexual	15	12	11
Transgender	3	2	3

The number of lesbian, gay and bisexual leaders in the Office of the President grew for the third consecutive year. Coupled with the small but important increase in the number of transgender leaders, this positive growth trend is encouraging.

Numbers count. Whether we look at the data from the perspective of the increase in the number of entities reporting, the overall growth of LGBT leadership participation or the expansion of the number and type of leadership positions held by LGBT members, all indicators point in a favorable direction. Although the journey toward full participation of LGBT practitioners in Association leadership continues to be long and arduous, the progress that has been made thus far is heartening and strengthens our resolve to reach our goal.

## Qualitative Reporting for 2010-2011

The goal of each and every ABA entity should be to develop and implement high-quality, sustainable diversity-related programming that will stand the test of time and have a lasting impact on the promotion of LGBT practitioners into positions of authority. As has been the case in prior Goal III reporting years, we posed the following two questions to every ABA entity:

1. *What efforts—programs, projects, policies, committees or other activities—has your entity implemented, initiated or undertaken to support, advance and/or retain sexual orientation and gender identity diversity in your entity, the ABA, and the legal profession?*
2. *Please describe the results that the above efforts have had in increasing sexual orientation and gender identity diversity within your entity, the ABA, and the legal profession.*

Thirty-six of the 58 entities answering our call for Goal III data responded to one or both of these queries, compared to 32 entities in 2009-10. Entity responses range from the very general to the very specific and paint a clear picture of the breadth of diversity programming currently in existence. Some entities offered general, non-committal answers to the two questions:

### *Question 1*

- “No specific efforts other than what’s already included in [our] Diversity Plan.”
- “We focus on inclusion, not on attracting, recruiting or categorizing members based on pre-established categories of diversity.”
- “[We do not] ask members to self-identify in order to analyze results of our inclusion efforts.”
- “We actively recruit from a large pool of ABA members. We are inclusive and welcome all ABA members interested in our products and services, regardless of their personal lives, sexual orientation or preferences.”
- Our diversity policy strives for inclusion of . . . gay and lesbian lawyers. We strive to be as inclusive as possible to achieve a diverse leadership.”
- “Sexual orientation and gender identity will be in [our] revised Diversity Plan.”
- “We are working on a diversity plan for the next fiscal year.”

### *Question 2*

- “Results are unknown. Until the ABA census includes questions concerning a member’s sexual orientation and gender identity that can be accessed about a member, there is no way of obtaining this information.”
- “This information will be available during the next Goal III reporting process.”
- “Results are hard to measure.”
- “Negligible.”
- “Not tracked.”
- “Results will not be available until next year.”

However, several entities provided more detailed responses identifying specific diversity-related efforts and initiatives:

#### *Question 1*

- “We co-sponsored a breakfast with the Diversity Committee of the Tort, Trial & Insurance Practice/Fidelity Surety Law Committee in San Francisco, California. The topic was the status of Proposition 8, the Gay Marriage Law in California.”
- “In addition to the Diversity Law CLE during Midyear, we will host a CLE program during the Annual Meeting [that] focuses on bullying and [we] will invite [the] SOGI Commission to participate, along with experts in school law and tolerance.”
- “We’ve reached out to and received co-sponsorships from the National LGBT Bar Association on several of our programs. Marketing materials are printed with their name and logo and sent to their organization as invitations to attend these programs.”
- “We include an LGBT representative on the Diversity Committee.”
- “We have appointed a liaison to the [SOGI] Commission. We include a question trying to capture this information on our committee chair nomination forms and our program submission forms.”
- “We ask all of our speakers for data in regards to sexual orientation and gender identity.”
- “At Annual Meeting, [we] presented a program on Emerging Legal & Social Issues in Same-Sex Dissolutions. The panel provided an overview of emerging legal issues arising in the dissolution of same-sex partnerships . . . The program was well attended and received. To increase access to the program, it was simultaneously presented as a teleconference.”
- “[We] include the Goal III initiative, which [calls for] the full and equal participation in the legal profession by persons of differing sexual orientation and gender identities, on the leadership appointment confirmation that is mailed out to each individual who holds a leadership role, as well as on the data collection tool we send to speakers and authors.”
- “The Section began a Leadership Academy in 2006-07, which . . . promotes the inclusion of LGBT [members]. The Section’s diversity statement includes LGBT members as well. The diversity training video that is being rolled out this year includes LGBT [practitioners] as part of a diversified workforce.”
- “At this year’s ABA Annual Meeting, we presented a program entitled, “Planning for Same-Sex Couples and the Changing Definition of Marriage.” Two LGBT program panelists spoke at the event. GAYLAW is the co-sponsor of one of our [programs].”
- “The . . . division welcomes the participation of a liaison from the National Lesbian, Gay, Bisexual and Transgender Bar Association as a non-voting member of the Division’s Board of Governors.”
- “The Section reached out to the Lesbian and Gay Bar Association of Chicago with an invitation to co-sponsor its first Electronic Discovery Digital Evidence Workshop.”

#### *Question 2*

- “Currently, [we] have 18 lawyers who have identified themselves as lesbian, gay or bisexual.”
- “Out of 4,862 members, 28 have identified themselves by sexual orientation or preference.”
- “We have seen a slight increase in the Goal III collection forms where individuals will self-identify their sexual orientation and gender identity.”
- “Because of the Section’s efforts, people in this classification have come forward and are active in the leadership of the Section.”
- “This year, four speakers at the Section’s Spring Meeting identified themselves as LGBT lawyers. The Section hopes active involvement from this group will continue to rise.”
- “Since establishing a Diversity Law Committee in FY10, Section members have received this committee as a core substantive committee, dedicated to the issues related to SOGI in State and Local Government Law.”

We appreciate the input of the 36 responding entities. The information compiled from these responses is vital as we seek to identify viable and effective programming that can be easily replicated. We thank the following ABA entities for their invaluable input:

### **Sections**

- Antitrust Law
- Business Law
- Criminal Justice
- Dispute Resolution
- Environment, Energy and Resources
- Family Law
- Government and Public Sector Lawyers
- Health Law
- Individual Rights & Responsibilities
- Intellectual Property Law
- Labor and Employment Law
- Law Practice Management
- Legal Education and Admissions to the Bar
- Litigation
- Public Contract Law
- Public Utilities, Communications and Transportation Law
- Real Property, Trust & Estate Law
- Science and Technology Law
- State and Local Government Law
- Taxation
- Tort Trial & Insurance Practice

### **Divisions**

- General Practice, Solo and Small Firm
- Judicial
- Law Students
- Senior Lawyers
- Young Lawyers

**Forums**

- Affordable Housing
- Air & Space Law
- Communications Law
- Construction Industry
- Entertainment & Sports Industries
- Franchising

**Commissions**

- Law and Aging
- Sexual Orientation and Gender Identity
- Women in the Profession

**Other**

- National Conference of Bar Presidents

## Entities Recognized for Special Efforts

Some ABA entities are farther along the path to greater LGBT representation in leadership than others. We encourage those just beginning their journey and continue to support those that have been marching toward the goal but still have a ways to go. We are particularly impressed with the LGBT-focused initiatives being created and implemented by some of our ABA counterparts. Their commitment to the advancement of LGBT practitioners into leadership is evident from the innovative and comprehensive programming that they have developed. In many cases, these initiatives have already begun to bear fruit. The four entities featured are no strangers to this honor roll listing. Their efforts deserve special mention and continue to stand as models worthy of replication. We welcome the opportunity to feature more ABA groups in this special listing and challenge all Association entities to strive for the excellence and innovation exemplified by the following Sections.

The **Section of Family Law** established a Committee on Alternative Families to address issues of importance to family law clients grappling with sexual orientation and gender identity issues and concerns. The Committee also serves as a home to Section members personally affected by these issues. The Section has published several articles on topics of interest to LGBT constituencies. It dedicated the Winter 2010 issue of its quarterly periodical, *Family Advocate*, to the legal issues surrounding same-sex marriage and cohabitation. Additionally, the Section published an article in a recent volume of the *Family Law Journal* entitled, “Second-Class Families: Interstate Recognition of Queer Adoption.” The Section has appointed a liaison to the SOGI Commission.

The **Section of Individual Rights & Responsibilities** continues to support the LGBT Enterprise Funded Project, which addresses domestic violence issues in the LGBT community. The Section partnered with the ABA Commission on Domestic Violence, the Criminal Justice Section and the National LGBT Association to develop a toolkit for lawyers working with lesbian, gay, bisexual and transgender survivors of domestic abuse. The toolkit outlines the civil protections available to LGBT survivors, such as civil protection orders, offers tips on working with LGBT survivors and provides an up-to-date list of the state laws impacting available protections. It also lists resources for additional training and information. The Section continues its work in support of marriage equality, promoting equal treatment of gay men and women. The Section developed a policy adopted by the ABA that urges the elimination of the legal barriers to civil marriage between two persons of the same sex. The Section established the Thurgood Marshall Award Dinner in 1992 to recognize the long-term contributions by members of the legal profession to the advancement of civil rights, civil liberties and human rights in the United States. This year the award was presented to the first openly gay recipient. Additionally, three openly gay members serve on the Section’s Council. The Section recently held a Lobby Day on Capital Hill during which it lobbied for the repeal of U.S.C. §7’s definitions of “marriage” and “spouse,” which have been responsible for the denial of federal marital benefits to same-sex couples. The Section also lobbied for the Employment Non-Discrimination Act of 2009, which would include sexual orientation and gender identity among Federal employment discrimination protections.

The **Section of Labor & Employment Law** continues to implement its Diversity Plan, which prescribes specific action steps to recruit LGBT practitioners, foster an atmosphere of inclusion

once they are recruited, encourage their participation on panels, task forces and working groups and provide them with opportunities and training to assume leadership roles. The Section's Third Annual CLE Conference in Washington D.C. included a program entitled, "EEO Law: Overview and Current Issues under Title VII, the ADAF and the ADA," which focused on federal anti-discrimination statutes. The Section sponsored another program entitled, "Transgender and Sexual Orientation Discrimination and Updates on Sex Stereotyping Claims," which dealt with employment discrimination on the basis of gender identity or expression in the absence of a federal statute. This program was presented by LGBT members. The Section presented a panel on "Best Practices for Implementing Workplace Policies to Accommodate LGBT Employees" at the Annual CLE Conference in November 2010. The Section asked its Committees to track LGBT attorney attendance and participation at its 2010 Midyear Meeting. Two Section Committees reported the participation of six LGBT speakers. One of these Committees also reported the participation of an LGBT practitioner in its Government Fellows program. During FY2011, the Equal Opportunity in the Legal Profession Committee (EOLP) and the EOLP Project Team will recommend that the Section undertake an online survey that participants can choose to respond to anonymously. The survey would be patterned on the Goal III Data Collection Survey to elicit information about LGBT attorney participation in the Section. The survey also would also seek input from law firms, agencies and organizations that employ lawyers regarding their efforts to recruit LGBT lawyers. Lesbian, gay, bisexual and transgender members serve on the diversity task forces of the Section's Standing Committees. The Diversity Outreach Initiative Task Force (DOIT) is headed by an openly gay attorney. These task forces encourage broader participation of LGBT members.

The **Section of Litigation** is guided by its Diversity Plan, which features five accountability grids related to each Goal III initiative including lawyers with differing sexual orientations and gender identities. One of the four committees established by the Section to address diversity issues is dedicated to the concerns of LGBT lawyers. These committees work individually and collaboratively on advancing diversity in the Section's work and programming. In April 2010, the Children's Rights Committee hosted a program entitled, "What Lawyers Need to Know about Representing LGBTQ Youth," at the Cardozo Law School. The program featured an expert panel that focused on providing lawyers with advocacy tools to successfully represent lesbian, gay, bisexual, transgender and questioning (LGBTQ) youth in a variety of settings. In the future, the Committee plans to co-sponsor activities with other committees such as the LGBT Litigator Committee. The LGBT Litigator Committee, which was established in 2008-09, presented a program on legal issues facing the LGBT community at the Winter 2010 Leadership Meeting in New Orleans. On August 5, 2010, the LGBT Litigator Committee co-hosted a LGBT Lawyers and Friends Reception at the ABA Annual Meeting. Over 150 people attended the event, including distinguished guests, Paul Smith (this year's recipient of the ABA Thurgood Marshall Award), Judge Jodi Levine (Oklahoma City) and Judge Victoria Kolakowski (California Public Utilities Commission). This event was co-sponsored by the Bay Area Lawyers for Individual Freedom (San Francisco's LGBT Bar) and the National LGBT Bar Association. The LGBT Litigator Committee has sustained active communication with its membership regarding recent developments in legal issues affecting LGBT individuals. The committee is focused on recruiting new members and reaching out to local LGBT bars in order to collaborate on joint programming.

# Expanding and Enhancing Goal III Reporting and Related Diversity Efforts

The SOGI Commission is continually striving to improve the Goal III reporting process. We have identified a number of areas of improvement. First, a number of ABA entities have declined to provide LGBT related Goal III data on the ground that they are of the position that gathering such data violates the confidentiality and privacy of their members, presenters and authors.

While it is the position of the SOGI Commission that requesting the *voluntary* disclosure of information related to sexual orientation and gender identity does not present any confidential or privacy concerns, we offer the following as a means of avoiding the issues raised by other entities. An appropriate resolution is to incorporate the electronic member information systems already in use by the ABA, such as The Integrated Members Services Solution (TIMSS), into the Goal III data collection paradigm. While not a perfect solution, the use of existing, captured, self-reported data from our Membership group can serve as a means to mitigate any discomfort a person may feel about asking – or making an assumption about – a member’s gender identity or sexual orientation.

Goal III data is collected from three sources or categories: ABA leadership, which requires ABA membership; and both CLE faculty and publication authors, which do not require ABA membership. Therefore, where the information in the Goal III report reflects only leadership it should be considered accurate. However, where the information in the Goal III report is inclusive of CLE faculty and/or publication authors, it may not reflect the actual leadership experiences of LGBT attorneys within the ABA. This report's accuracy reflects the best information available as we continue attempting to improve the accuracy of the data collected.

Another area of improvement has to do with double counting. The current tracking system has no mechanism to ensure that each participant is counted only once. Since Goal III is designed to measure participation by the ABA’s volunteer members, the present system does not distinguish between the efforts of members and those of non-members. Also, there could be repeat participants in both those categories in the same entity and across the entities. As is true with respect to the issues discussed above, this problem could be addressed by incorporating the electronic member information systems into the Goal III data collection paradigm. For a fuller discussion of TIMMS and the value of electronic tracking, please refer to the SOGI Commission’s 2008-09 Goal III Report Card.

In addition to offering suggestions to improve the Goal III data collection process, the SOGI Commission also continues to encourage the various ABA entities to develop and/or expand their respective diversity plans, especially with respect to efforts to address and reach LGBT lawyers. This year, 36 responding entities described activities or strategies designed specifically to be more welcoming of LGBT lawyers. These efforts included co-sponsoring programming on LGBT issues, requiring a full range of diversity – including LGBT diversity -- on program panels, designating a liaison to the SOGI Commission, and revising diversity plans to encourage and develop LGBT membership and activity within the entity. Not only do LGBT inclusive programming efforts serve to educate members of the ABA and the profession more generally about LGBT issues, such programming is also an important mechanism to attract and retain diverse members. We salute these efforts and encourage more like them.

# Conclusion

The SOGI Commission is the ABA's voice for the LGBT legal community. While our numbers in the third year of our participation in the Goal III survey continue to be low in comparison to those reported by our sibling diversity commissions, we are pleased that the numbers of entities reporting LGBT participation has increased over last year. We remain committed to working with ABA entities to improve and increase reporting numbers going forward; and, we fully expect that that more ABA entities will pursue a more robust, and full, reporting of their diversity data, as they pursue similarly vigorous diversity in their membership, leadership, programming and publications. The ABA's creation and support of the SOGI Commission signals the Association's awareness of and commitment to LGBT issues and individuals. It is also a signal to its constituent entities of the importance of LGBT representation within their ranks.

## Commissioners

**Courtney G. Joslin**, Chair, Davis, CA

**Elaine Arabatzis**, New York, NY

**Ann M. Courtney**, Portland, ME

**Jimmy K. Goodman**, Oklahoma City, OK

**James J.S. Holmes**, Los Angeles, CA

**Jennifer Levi**, Easthampton, MA

**Jodi B. Levine**, Oklahoma City, OK

**Louis Lopez**, Washington, D.C.

**Alyson Dodi Meiselman**, North Potomac, MD

**Glenn Stover**, San Francisco, CA

**Adonica-Jo R. Wada**, San Francisco, CA

**Randi Whitehead**, Sarasota, FL

**Janson Wu**, Boston, MA

## Commissioner Biographies



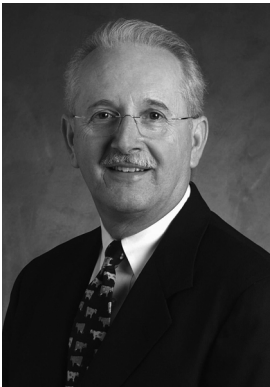
**Courtney G. Joslin** is an Acting Professor of Law at the UC Davis School of Law where she teaches Family Law; Employment Discrimination; and Sexual Orientation, Gender Identity, and the Law. Prior to joining the faculty at UC Davis, Professor Joslin served as an attorney at the National Center for Lesbian Rights (NCLR), where she litigated cases on behalf of lesbian, gay, bisexual, and transgender people and their families. She received her undergraduate degree *magna cum laude* from Brown University and her law degree *magna cum laude* Harvard Law School, where she was an executive editor of the Harvard Civil Rights-Civil Liberties Law Review.



**Elaine Arabatzis** joined Dickstein Shapiro in September 2001, as a senior associate. She has extensive experience in the area of professional liability, including legal and medical malpractice. She presently serves as Diversity/Pro Bono Counsel to the firm. She has represented numerous pro bono clients, including a number of victims and families of victims of the September 11 terrorist attacks.



**Ann M. Courtney** is an Assistant Vice President and Senior Counsel in Unum’s Portland, Maine office, where she manages both ERISA and non-ERISA claim litigation in life, disability and long term care cases in state and federal courts. She currently serves on the ABA Commission on Sexual Orientation and Gender Identity and as Chair of the Editorial Board of Perspectives, the newsletter of the ABA Commission on Women in the Profession.



**Jimmy K. Goodman** is Chairman of Crowe & Dunlevy. A trial lawyer with his firm for more than 37 years, he tries lawsuits and advises clients, with specialties in both complex business and commercial litigation and also federal Indian law and gaming. He is recognized for his expertise by *Oklahoma Superlawyers*, *Chambers* and *Best Lawyers in America*. He is Oklahoma’s Delegate to the ABA House of Delegates, has held numerous positions of leadership in the ABA Litigation Section, and has served on both the ABA’s Council on Racial and Ethnic Justice and the Commission on Racial and Ethnic Diversity.



**James J.S. Holmes** is a partner in resident at the Los Angeles office of Sedgwick, Detert, Moran & Arnold. Jim is a member of Sedgwick’s Management Committee and chairs that firm’s Media Practice Group and LGBT Affinity Group. Jim is a past chair of the TIPS Media Privacy and Defamation Law General Committee and is a vice chair of that section’s Committee on Diversity in the Profession. Jim is a Fellow of the American Bar Foundation, a member of the National LGBT Bar Association and is a member of the Board of Governors for the Lesbian and Gay Lawyers Association of Los Angeles. Jim has received a commendation from the California Bar Association for his pro bono work and was recently named “Volunteer of the Year” by the Los Angeles Superior Court for his service as a temporary judge.



**Jennifer Levi** is one of our nation’s leading experts on transgender legal issues. She serves as the director, of the Transgender Rights Project at Gay & Lesbian Advocates & Defenders (GLAD). During her tenure with GLAD, she was lead counsel in a number of precedent setting cases establishing basic rights for transgender people. Jennifer is a Professor of Law at Western New England College.



**Jodi B. Levine** is a U.S. Administrative Law Judge in Oklahoma City. She is a Past Chair of the ABA Judicial Division and of the National Conference of the Administrative Law Judiciary. Judge Levine currently is a member of the ABA Section of Individual Rights and Responsibilities Council and a member of the ABA Section of Administrative Law and Regulatory Practice Council. She also is a member of the ABA AIDS Coordinating Committee and of the ABA Standing Committee on Gavel Awards.



**Louis Lopez** is Deputy Chief in the Employment Litigation Section of the Civil Rights Division at the U.S. Department of Justice, where he serves on the Division's GLBT Working Group. He also is an adjunct professor at Georgetown Law School, where he teaches labor and employment law courses. Louis currently serves as Co-Chair of the Employment Rights and Responsibilities Committee and Co-Chair of the Outreach to Government Lawyers Committee in the ABA's Labor and Employment Law Section.



**Alyson Dodi Meiselman** is a solo practitioner in North Potomac, Maryland, concentrating in transgender law. She was the primary author of Cause of Action for Legal Change of Gender, 24 COA2d 135 (2004). She currently serves as Chair of the ABA Family Law Section's Alternative Families Committee, on the Editorial Board of Perspectives, the quarterly publication of the ABA Commission on Women in the Profession, and, on the executive committee of the ABA Health Law Section's Breast Cancer Task Force. Ms. Meiselman was appointed to the ABA Commission on Sexual Orientation & Gender Identity in 2010.



**Glenn Stover** is the founder and principal partner of StoverLaw, a boutique telecom law firm in San Francisco. He served, for 17 years, as a Senior Attorney for AT&T. Glenn served as a Senior Attorney in the Antitrust Division of the US Department of Justice. He is a member of the Section Council of the ABA's Section of Individual Rights and Responsibilities and has chaired committees in that Section and in the Administrative Law Section.



**Adonica-Jo R. Wada** is a partner at Simon Gluck & Kane LLP where her practice is focused in Customs and International Trade Law, representing companies in a wide range of import and export related matters pertaining to U.S. Customs and Border Protection. She is a member of the California and Washington State Bars and is admitted to practice before the District Court for the Northern District of California, the U.S. Court of Appeals for the Federal Circuit, and the U.S. Court of International Trade. She is also a member of the Customs and International Trade Bar Association, the National Asian Pacific American Bar Association, the Asian American Bar Association of the Greater Bay Area, and the Minority Corporate Counsel Association.

**Randi Whitehead** is a lawyer in Sarasota, Florida and has been an active member of the ABA for more than fifteen years. She has served on the ABA Working Group on Health Care Reform as well as on the Publications Board of the Law Practice Management Section, in addition to serving as Chair of the Health Care Law Committee of the Young Lawyers Division. She is active in the General Practice, Solo & Small Firm Division and Tort Trial and Insurance Practice Section.



**Janson Wu** is a staff attorney with Gay & Lesbian Advocates & Defenders (GLAD), a New England-based legal organization dedicated to ending discrimination based upon sexual orientation, gender identity and expression, and HIV status. He also serves as Vice Chair of the Sexual Orientation/Gender Identity Committee of the ABA Section of Individual Rights and Responsibilities, and on the Legal Committee of the World Professional Association for Transgender Health.