

2019 CEI Criteria Changes & Toolkit for Success



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2019 CEI Criteria Changes and Clarifications at a Glance

To earn a 100 in the 2019 CEI (survey taken calendar year 2018) and the coveted “Best Places to Work for LGBTQ Equality” trademark, participating employers must demonstrate:

- Retention/ reinstatement of partner benefits (in addition to spousal parity);
- Removal of transgender exclusions in all benefits plans and at least one plan that affirms coverage for medically necessary gender transition services; and,
- LGBTQ inclusion in existing supplier diversity programs.

Current Criteria

The 2018 CEI criteria are below. Note: there are no changes from the 2017 criteria. Criteria that will change for credit beginning with the 2019 CEI (available spring 2018) are **highlighted**, with additional information about changes in the following sections.

1. Equal Employment Opportunity Policy

- a. Includes sexual orientation for all operations **(15 points)**
- b. Includes gender identity for all operations **(15 points)**
- c. Contractor/vendor standards include sexual orientation and gender identity **(5 points)**

2. Employment Benefits

- a. *Equivalent spousal and partner medical benefits*
 - **Equivalent medical benefits: Includes parity between employees with different-sex spouses and same-sex partners or spouses in the provision of the following benefits: COBRA; dental; vision; legal dependent coverage (10 points)**
 - **Other “soft” benefits: Includes parity between employer-sponsored benefits for different-sex spouses and same-sex partners or spouses: bereavement leave; employer-provided supplemental life insurance for a partner; relocation/travel assistance; adoption assistance; qualified joint and survivor annuity for partners; qualified pre-retirement survivor annuity for partners; retiree healthcare benefits; and employee discounts (10 points)**
- b. Equal health coverage for transgender individuals **without exclusion for medically necessary care** (10 points)

3. Organizational LGBTQ Competency

- a. Competency training, resources or accountability measures (10 points)
- b. Employee Group –OR– Diversity Council (10 points)

Public Engagement

Philanthropic Giving Guidelines **(5 points)**

Demonstrated ongoing LGBTQ-specific engagement efforts, including three for the following: recruiting, **supplier diversity**, marketing or advertising, philanthropy or public support for LGBTQ equality under the law **(15 points)**

Criteria Changes

In the current CEI, participants earn 20 points for having parity in core medical and soft benefits between different- and same-sex spouses, or same-sex domestic partners. Beginning in the 2019 CEI, participants must offer parity between different- and same-sex spouses **and** have coverage available for domestic partners of enrollees.

In the current CEI, participants earn 10 points for affirming equal health coverage for transgender individuals without exclusions for medically necessary care in at least one plan that is available to all US benefits eligible employees. Beginning in the 2019 CEI, participants must remove transgender exclusions from **all** benefits plans.

In the current CEI, participants can earn credit in the Public Engagement Section for having LGBTQ supplier diversity as part of their supplier diversity program as one of their three demonstrated efforts. Beginning in the 2019 CEI, participants **must** include LGBTQ suppliers as part of their supplier diversity program (if such a program is in existence).

2019 CEI Criteria Changes and Clarifications in Detail

Domestic Partner Benefits: The Parity Principle

Since 2002, the CEI has required parity between spousal and partner benefits. Since then, many employers have found – even before marriage equality was a reality – that partner benefits available to both same and different sex couples made good business sense. In fact, over the last decade the majority of CEI-rated businesses that have offered same-sex partner benefits (92% of 2017 CEI rated employers) and also extended these benefits to different-sex partners (81% of those with partner benefits) to better meet the needs of their own diverse workforces. Many businesses have moved to “Plus 1” coverage that includes domestic partners in order to attract and retain the very best talent and to decouple benefits from the legal definition of marriage.

After the two landmark Supreme Court marriage equality rulings, *United States v. Windsor* and *Obergefell v. Hodges*, HRC released a position paper cautioning against prematurely doing away with partner benefits: While the 2015 U.S. Supreme Court decision in *Obergefell v. Hodges* ruled that marriage is a fundamental right to which same-sex couples should have the same access as different-sex couples, bringing marriage equality nationwide, it remains legal to discriminate against LGBTQ individuals in employment, housing, and access to public places, federal funding, credit, education and jury service.

Even though the Supreme Court’s ruling has brought marriage equality to all 50 states, 31 states still lack clear, fully-inclusive non-discrimination protections for LGBTQ people, meaning that despite the ruling, LGBTQ Americans can get legally married but still be at risk of being denied services for who they are or risk being fired simply for getting married and wearing their wedding ring to the office the next day. Discrimination is a real and persistent problem for too many LGBTQ Americans. [Nearly two-thirds of self-identified LGBTQ Americans](#) reported experiencing discrimination in their personal lives.

The overwhelming majority of America’s leading businesses already address workplace fairness for LGBTQ employees, recognizing that equality is good for the bottom line. Among Fortune 500 companies, 92% have sexual orientation non-discrimination protections in place, and 82% have gender identity. But we still need a federal standard that treats all employees the same. The Equality Act, reintroduced in the 115th Congress on May 2, 2017, creates clear, consistent

protections to prohibit discrimination on the basis of sexual orientation and gender identity in employment ensuring that LGBTQ employees are hired, fired, and promoted based on their performance. In addition, the bill provides protections from discrimination for LGBTQ people in housing, credit, and jury service. The bill would also prohibit discrimination in public accommodations and federal funding on the basis of sex, sexual orientation, and gender identity.

Lacking protections based on sexual orientation and gender identity through federal and consistent state law, LGBTQ individuals remain at risk for discrimination in many other walks of life. In other words, LGBTQ Americans can get legally married but remain at risk of being denied services for who they are or risk being fired simply for getting married and wearing their wedding ring to the office the next day.

While HRC never changed its partner benefits mandate, a small number of companies hastily moved to spousal coverage only post-*Obergefell* and in the middle of the 2016 CEI survey period. These employers assumed that with the marriage ruling, the need for partner benefits was gone. This is not true. Until LGBTQ Americans have full federal equality through the [Equality Act](#)¹ or similar bill/s, partner benefits remain the necessary hallmark of LGBTQ inclusion in benefits.

Out of an abundance of understanding for our companies, HRC accepted spousal equivalent benefits in 2017 and will do so in 2018, while ramping up our outreach and education efforts on the need to maintain domestic partner coverage for 2019.

In the spirit of parity and partnership with our CEI participants, employers must offer both same and different-sex partner benefits for a 100% in the 2019 Corporate Equality Index. The CEI has always looked beyond the law and to actual best practices for LGBTQ workers and their families.

Timeline

For CEI 2018 (calendar year 2017)

- Companies with full parity of benefits between same- and different-sex spouses **or** between same- and different-sex domestic partners will receive full credit of 10 points.
 - Companies with spousal benefits only will receive full credit provided the definition of “spouse” in contracts and benefit paperwork is demonstrably inclusive of both same- and different-sex spouses.

Starting with CEI 2019 (calendar year 2018)

- Barring any change to federal law allowing for full non-discrimination protections for LGBTQ people, full parity of benefits requires access to benefits for same- and different-sex spouses as well as for same- and different-sex domestic partners.
 - To account for full family diversity, same-sex spousal benefits **AND same-sex domestic partner benefits** will be necessary to achieve full credit of 10 points.
 - The law requires that providing domestic partner benefits for same-sex couples means they must also be available for different-sex couples or the company will face risk of discrimination claims by different-sex couples.
 - As the CEI has always required same-sex domestic partner benefits, in essence HRC is giving companies a grace period to return to the original CEI mandate of partner benefits.

¹ Ninety-seven businesses have signed onto HRC’s Business Coalition for the Equality Act. This group publicly supports the federal fix to a patchwork of state and municipal protections that present challenges to employee mobility and safety. Equality is good for business, and these business leaders have endorsed legislation that follows their decades of experience and success in establishing consistent non-discrimination protections based on sexual orientation and gender identity.

FAQ

How many employers currently have same and different-sex partner benefits?

A majority of CEI participants currently have this level of inclusive coverage. Of the 887 officially rated participants in the 2017 CEI report, 86% earned credit for offering domestic partner benefits. Of those with domestic partner benefits, 87% extend benefits to both same- and different-sex partners.

Won't this be an expensive change?

No. For most major employers, the addition of domestic partner benefits accounts for a 1-2% increase in the benefits budget. The cost is negligible in the overall budget of major employers.

Why can't employees get married to enroll in benefits now that we have marriage equality?

Lacking guaranteed protections based on sexual orientation and gender identity through federal and state law, LGBTQ individuals are at risk of discrimination in employment, housing, public accommodations, federal funding, credit, education and jury service. A public marriage license identifying an individual or their spouse as LGBTQ can expose LGBTQ couples and families to risks to their safety and livelihood that their different-sex peers do not necessarily face. Even though the Supreme Court's ruling has brought marriage equality to all 50 states, 31 states still lack clear, fully-inclusive non-discrimination protections for LGBTQ people, meaning that despite the ruling, LGBTQ Americans can get legally married but still be at risk of being denied services for who they are or risk being fired simply for getting married and wearing their wedding ring to the office the next day. Discrimination is a real and persistent problem for too many LGBTQ Americans. Nearly two-thirds of self-identified LGBTQ Americans reported experiencing discrimination in their personal lives. Until LGBTQ Americans have full equality through the Equality Act, the CEI will continue to fill the void left by federal and state law to best protect a diverse U.S. workforce.

Do LGBTQ employees need access to different-sex partner benefits?

This change is to limit the risks faced by LGBTQ employees and their families in accessing important employer-provided benefits. Different-sex partner benefits are crucial to ensuring equal access to health, wellness, and financial employer-provided benefits to some members of the LGBTQ community, especially bisexual and transgender individuals.

In addition, there are business advantages to providing different-sex partner benefits in terms of recruitment and retention. The rise of "plus 1" benefits acknowledge the increasing diversity of family structures and provide for a host of other care-giving structures that these inclusive benefits could apply to, such as adult children supporting a parent who lives in the same household. Today's workforce – diverse individuals as well as diverse families – seek employers who will recognize this diversity and meet their needs.

Transgender-Inclusive Benefits: Removal of All Exclusions

To date, the Corporate Equality Index, has required private employers to mitigate exclusions for transition-related care in insurance documents, while also affirming care for transition-related benefits to earn the designation of “Best Places to Work for LGBTQ Equality.”

Federal law now bans (under the Affordable Care Act and with the clarification of Section 1557) sex discrimination in health programs as well as in employment (Title VII). There is a clear trend from federal courts interpreting sex discrimination prohibitions to cover discrimination based on gender identity. In HRC’s and the National Center for Transgender Equality’s legal analysis, mandates related to transgender healthcare coverage are ones in which **any procedure offered to a cisgender individual must also be offered for a transgender or transitioning individual without exclusion**. Understanding that the insurance market is evolving, businesses may be placing themselves at legal risk if they continue benefits plans containing transgender exclusions, even if riders or other plans affirm transition-related care or coverage for transgender individuals elsewhere.

Timeline

For CEI 2018 (calendar year 2017)

The standard that has been in place since the 2012 CEI will remain. Employers earn 10 points under the CEI criteria for equal health coverage for transgender individuals in at least one firm-wide available plan without exclusion for medically necessary care that meets the following baseline criteria:

- Insurance contract explicitly affirms coverage
- Plan documentation is readily available to employees and clearly communicates inclusive insurance options to employees and their eligible dependents
- Benefits available to other employees must extend to transgender individuals. Where available for employees, the following benefits should all extend to transgender individuals, including for services related to transgender transition (e.g., medically necessary services related to sex reassignment):
 - Short term medical leave
 - Mental health benefits
 - Pharmaceutical coverage (e.g., for hormone replacement therapies)
 - Coverage for medical visits or laboratory services
 - Coverage for reconstructive surgical procedures related to sex reassignment
- Eliminates other barriers to coverage
 - No separate dollar maximums or deductibles limited to coverage of sex reassignment surgeries and related procedures
 - Explicit adequacy of network provisions apply. When the provider network has no adequate specialists (as determined by qualified area specialists), out-of-network providers will be covered at in-network rates, as well as coverage of travel and lodging expenses to such specialists
 - No other serious limitations. On a case by case basis, other serious limitations to coverage may be deemed sufficiently counterproductive to treatment success to disqualify a given plan from eligibility. Two examples: a) limitations on the time frame for, or number of, surgeries per individual would eliminate a plan from consideration (e.g., no “one surgery only” or “initial surgery” limitations); b) Similarly, exclusions for reversals of sex reassignment would also be regarded as unacceptable limits to coverage

Starting with CEI 2019 (calendar year 2018)

Any blanket exclusions for transition-related care must be eliminated in all health care plans (i.e. conform with the law) **AND** explicit affirmation of coverage in at least one firm-wide available plan adhering to the criteria above (since 2012 CEI) is required retain the full 10 points (i.e. we are maintaining the existing standard).

Supplier Diversity: Aligning LGBTQ with Other Diverse Business Segments

Supplier diversity programs ensure that the procurement process includes specific opportunities for minority-owned businesses, women-owned, veteran-owned and, more recently, LGBT-owned businesses. Supplier diversity initiatives have existed in the business community for at least three decades, going back to the inception of such groups as the National Minority Supplier Development Council (NMSDC) and Women's Business Enterprise National Council (WBENC), the certifying bodies for minority and women-owned business, respectively. Furthermore, there are federal initiatives such as the Center for Veterans Enterprise that is designed to assist U.S. veterans in launching and thriving in private business. These initiatives intend to give more equitable opportunities to small business owners who are more likely to face social and practical barriers to success.

The [National Gay and Lesbian Chamber of Commerce](#) (NGLCC) began exclusively certifying LGBT Business Enterprises (LGBTBEs) in 2004, a process that requires, among other criteria, at least 51% LGBT ownership in a business.

Supplier diversity initiatives are a win-win relationship for both the LGBT Business Enterprises and the businesses that contract with them. By courting LGBT-owned businesses, over one-third of the participants in the 2017 CEI demonstrated their commitment to LGBT inclusion and now reap the benefits of working with businesses in the diverse communities in which they operate. Additionally, NGLCC has successfully advocated for many public sector procurement and contracting programs to now intentionally include LGBTBEs, which directly benefits large corporations with government contracts who have commitments to LGBT-inclusive subcontracting.

Starting with the CEI 2019 (calendar year 2018), participants with an existing supplier diversity program must include LGBTBE suppliers in their outreach to maintain full credit in this section. While the 2019 CEI criteria will not prescribe the addition of a supplier diversity program nor NGLCC membership, these are seen as a best practice by many leading companies with world-class supplier diversity programs.

Timeline

For CEI 2018 (calendar year 2017)

Participants will continue earning credit for having an LGBT inclusive supplier diversity program as one of their three efforts to earn 10 points under Public Engagement. Those efforts include, but are not limited to, publicly listing and recognizing LGBTBE certification alongside other diverse communities; identifying a point person(s) for supplier diversity / procurement to liaise with NGLCC and the LGBT business community; participating in programs / webinars with NGLCC local affiliate chambers across the United States.

Starting with CEI 2019 (calendar year 2018)

Participants with a supplier diversity program must include LGBT suppliers in their outreach efforts to maintain full credit in this section. Participants with a supplier diversity program that does not include LGBT diversity will lose 5 points under Public Engagement. While partnership with NGLCC is a supplier diversity best practice, participants need not be NGLCC partners. They must, however, have outreach to LGBT-owned businesses if seeking credit in this category.

FAQ

Do we need buy from a LGBT-owned business to earn credit?

No. There are no spending goals associated with this criterion at this point. Participants need only add LGBT outreach to their existing supplier diversity programs to earn credit. Participants are not required to engage in business or prove to HRC that they have done business with LGBT-owned or NGLCC certified LGBT Business Enterprises (LGBTBEs) to earn credit.

Do we need to add a supplier diversity program to earn credit?

No. This requirement of parity in how participants define diversity only applies to established supplier diversity programs. However, if you are interested in creating a supplier diversity program as a best practice, our team is happy to help, along with the premiere experts and practitioners at NGLCC.

Further Questions?

Webinars

Our team will continue to host a series of webinars, whose dates will be posted on the online CEI survey interface. These webinars aim to assist your team in completing the 2018 survey and in preparing for the 2019 changes. Please be sure to log into your 2018 CEI survey once it is live to view upcoming sessions.

Contact the CEI Team

Please don't hesitate to be in touch with any questions about the 2019 or 2018 CEI survey and criteria. Our team is more than happy to work with you to ensure that you are prepared for the new criteria and to provide confidential consultation and resource support.

Feel free to contact our team anytime at cei@hrc.org

For specific questions on LGBT-inclusive supplier diversity programs and utilizing certified LGBT Business Enterprises, contact NGLCC Corporate Relations at CorporateRelations@nglcc.org

Thank you for your commitment to LGBTQ workplace equality and for your ongoing participation in the Corporate Equality Index.