

ELIMINATING BIAS AGAINST LGBTQ+ LEGAL PROFESSIONALS: CONTINUING THE CONVERSATION

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In the spring of 2022, the University of North Dakota School of Law hosted a continuing legal education (“CLE”) program on Eliminating Bias against LGBTQ+ Legal Professionals, sponsored by two law student organizations along with the Women Lawyers Section of the State Bar Association of North Dakota (“SBAND”). This piece provides a transcript of that program, lightly edited for clarity, as well as further examples of recent initiatives to eliminate bias against LGBTQ+ members of our community. Its primary purpose is to encourage the legal profession in our state to continue the conversation about how to improve the climate for our colleagues regardless of their sexual orientation or gender identity.¹

A video recording of the CLE program may be accessed online,² as well as a summary published in THE GAVEL magazine by SBAND.³ Below is the transcript of the CLE program.

Morghan Piper (00:00:00)⁴

Good afternoon and welcome to this forum on eliminating bias against LGBTQ+ legal professionals. My name is Morghan Piper, and I am a third-year law student and the president of the UND School of Law’s International Human Rights Organization, which organized this event. To begin today’s

*† Associate Dean for Teaching and Engagement and Professor, University of North Dakota School of Law. I deeply appreciate the mentorship and encouragement from my colleague Michael S. McGinniss, Professor and former Dean of the UND School of Law, as well as his support for the forum on Eliminating Bias against LGBTQ+ Legal Professionals at the law school and his commitment to the equality and dignity of all people. I am also grateful to Professor Paul Traynor, Ms. Lisa Edison-Smith, and Dr. Jeff Maliskey, for their willingness to share their legal and academic expertise, as well as their personal experiences, in this forum and to initiate a conversation about how the legal profession in our state can ensure all members are treated with equality and dignity, regardless of their sexual orientation or gender identity.

1. Since this piece stems from the CLE program, it takes a different approach from a traditional law review article. Therefore, it does not purport to advance a new legal theory, but rather is intended to offer practical ideas for legal employers and others to consider who are concerned about eliminating bias against LGBTQ+ members of the legal profession.

2. Univ. of N.D. Sch. of L., *Forum on Eliminating Bias Against LGBTQ+ Legal Professionals*, (Apr. 1, 2022), <https://tinyurl.com/bde9wuc3>.

3. Julia L. Ernst, *Eliminating Bias Against LGBTQ+ Legal Professionals*, THE GAVEL, Summer 2022, at 20, <https://viewer.joomag.com/summer-2022-gavel-w-hyperlinks/0895692001661255006?short&>.

4. The times in the video recording are shown in parentheses.

discussion, I would like to welcome Dean Michael McGinniss to the podium to provide opening remarks.

Michael McGinniss (00:00:14)

Thank you, Morghan, and greetings to all of you.

Thank you for coming to the UND School of Law today, as well as those of you joining us virtually via Zoom, to engage with today's excellent panel presentation on eliminating bias against LGBTQ+ legal professionals. I am grateful to our School of Law's International Human Rights Organization, the Student Trial Lawyers Association, and SBAND's Women Lawyers Section for co-sponsoring this great event. I truly appreciate all the hard work that our students—especially Morghan Piper, Sunpreet Sidhu, Aryan Siadat, Marisa Saucedo and Crystal Gumieny—and our SBAND colleagues, have put in to provide such an outstanding panel of speakers on this topic. I wish to offer particular thanks to these great panelists—Lisa Edison-Smith, Professor Paul Traynor, and Jeff Maliskey—for sharing their insights and their time with us today. I greatly appreciate, as well, the excellent leadership of this year's president of the SBAND Woman Lawyers Section, Morgan Croaker, and the superb and thoughtful work done by our amazing Associate Dean and Professor, Julia Ernst, as she spearheaded the preparations and planning for this meaningful learning and discussion opportunity. I also greatly appreciate the behind-the-scenes work done by our excellent UND staff, including Beth Moe and Mike Hanson, for helping bring today's event from concept to reality.

UND School of Law is North Dakota's law school, and we hope that by engaging in these important questions, we can help make our legal community stronger and our system of justice and the application of the rule of law more accessible and fair for all persons in our communities.

Thank you so much, and please enjoy the panel presentation, the reception that will follow in the adjoining Burtness Lounge, and all of your time with us at UND School of Law today. Thank you.

Morghan Piper (00:02:10)

Thank you, Dean McGinniss, for your opening remarks.

On behalf of the International Human Rights Organization ("IHRO"), I sincerely thank and acknowledge everyone who worked tirelessly to make this panel a great success, including the Student Trial Lawyers Association, the Woman Lawyers Section of the State Bar Association of North Dakota, Dean McGinniss and the University of North Dakota School of Law, Associate Dean Julia Ernst, Sunpreet Sidhu, Aryan Siadat, Marisa Saucedo, Crystal Gumieny, Beth Moe, and Mike Hanson.

I would like to further thank and acknowledge our in-person participants for their attendance and our Zoom participants for their engagement. We have

an incredible number of individuals with us today, including over 200 participants via both platforms.

Today encompasses the journey of progress towards equality and a recognition of LGBTQ rights as human rights, but there is still a long way to go and a lot of work to be done.

Tragically, this fall in Beach, North Dakota, transgender teen Haley Gabriella Feldmann committed suicide on November 12, 2021—six days before her 19th birthday. After Haley’s death, her family stated in her obituary: “Haley had grown weary of the knowledge of her reality, knowing this country and this world would never stop trying to force her to submit to its ignorance, and her family rages for her.” Her family remarked that factors contributing to her depression included health insurers denying coverage of gender-affirming medical care, and transphobic legislation aimed to restrict access to care. Haley’s family’s eloquent expression of their grief caused her obituary to receive nationwide and global coverage, resonating with people around the world.

Just a few months before, Republican Senator Susan Collins of Maine, in addition to the entire Maine congressional delegation, came together to recognize and raise awareness of challenges LGBTQ youth face. The delegation released a joint statement saying, “No one should feel that suicide is their only option, but the sad truth is that far too many teenagers who identify as LGBTQ are struggling and do not feel safe or welcome.” This recent tragedy in North Dakota underscores the discrimination people in the LGBTQ community face and experience in all aspects of life, including education, housing, health care, and health insurance, among many others, that provide aspects of discrimination to these groups.

The fight to end discrimination and promote equality does not stop today. Instead, we should continue to promote protection of the gains we have made, encourage fending off the cruel and unconscionable attacks we are seeing against LGBTQ individuals and their families, and fulfill the promise that everyone should be able to enjoy equality, dignity, protection, and joy in living their lives.

Many legal professionals are members of the LGBTQ community. Many other members of the legal profession also support LGBTQ rights as fundamental, constitutional, and human rights. It is our duty as legal professionals to support, facilitate, and uphold forward progress to end discrimination and promote equality.

Today’s panel discussion is a step in the right direction towards completing the work that remains unfinished. When a same-sex couple can be married in the morning but denied a lease in the afternoon for being gay, we know our work towards equality is unfinished. When in over half of our states, LGBTQ Americans lack explicit state-level civil rights protections to

shield them from discrimination, we know our work towards equality is unfinished. It should take no compromise to give LGBTQ members the rights they deserve. To quote President Obama in his second Inaugural Address: “Our journey is not complete until our gay brothers and sisters are treated like anyone else under the law—for if we are truly created equal, then surely the love we commit to one another must be equal as well.”

We have three phenomenal panelists speaking with us today.

First, we have Ms. Lisa Edison-Smith. Lisa Edison-Smith practices exclusively in employment and labor law and litigation and is an MSBA Certified Labor and Employment Law Specialist. A native of Milnor, North Dakota, Lisa has practiced for the past twenty-five years with the Vogel Law Firm’s Fargo office. She focuses her practice on providing practical advice to North Dakota and Minnesota employers on a variety of issues related to discrimination and harassment, state and federal compliance issues, wage and hour law, employment contracts, policy review, hiring and termination, internal investigations, and employee benefits. Lisa is a graduate of Hamline University School of Law and holds a BS in business administration and accounting from North Dakota State University (NDSU). Before joining the Vogel Law Firm, she served as a law clerk to the honorable Chief Justice A. M. [Sandy] Keith of the Minnesota Supreme Court and worked for over eight years for GTE Corporation in finance and accounting. Lisa and her wife, Penny Andrist, enjoy traveling, are NDSU Bison football fans, and enjoy spending time with family, especially their two grandchildren, but not necessarily in that order.

Next, we have Professor Paul Traynor. Professor Traynor has spent twenty-nine years as legal counsel and general counsel for companies that do business across the United States. He received his Juris Doctor degree from the University of North Dakota School of Law in 1988 and a Master’s (LLM) of Insurance Laws from the University of Connecticut School of Law in 2002. His professional experience includes advising insurers on regulatory and compliance matters, business development, and approval of risk management products. Professor Traynor has also represented boards of directors on matters related to mergers and acquisitions, board governance, and corporate compliance with security laws. Further, he advises insurers both domiciled in the United States and foreign offshore entities that offer risk management products. For the past ten years, Professor Traynor advised insurers specializing in the health care market, insuring physician practice groups, major medical centers, and teaching hospitals. He has previous experience in complex reinsurance transactions and fronting arrangements. As in-house counsel, Professor Traynor has represented NODAK Insurance Group of Fargo, North Dakota, Horace Mann Companies of Springfield, Illinois, and Kemper Insurance Companies of Chicago, Illinois, as well as

Coverys in Boston, Massachusetts. Currently, Professor Traynor is teaching Insurance Law, Health Law, Business Associations, and Advanced Torts. He is licensed in Illinois, Michigan, Minnesota, and North Dakota, and the federal courts of Minnesota and North Dakota.

Last but not least, we have Mr. Jeff Maliskey. Jeff Maliskey serves as the Assistant Director for Student Diversity and Inclusion and LGBTQ Initiatives. His work focuses on LGBTQ identity support, gender and sexuality education, and advocacy. Jeff is also pursuing a Ph.D. in higher education, focusing on the history of queer resistance and student activism at the University of North Dakota.⁵

The plan for today is that this space is intended to be one of openness and understanding. Participants are encouraged to write questions on notecards provided at the front of the room, and Zoom participants are encouraged to write their questions in the chat. All participants should keep in mind collegiality and respect when asking questions. Members of IHRO will be circulating to collect notecards from the in-person participants.

Without further ado, it is my great pleasure to introduce and welcome to the podium Ms. Edison-Smith to provide a presentation on employment law regarding LGBTQ legal professionals.

Thank you.

Lisa Edison-Smith (00:10:29)

Thank you, Morghan.

I would like to thank the sponsors of this event, too. I think an event like this—that can be shared statewide—can only be to the benefit of the really important goals of diversity and inclusion in the bar in North Dakota, which unfortunately are sorely lacking at this point.

I am Lisa Edison-Smith, and as Morghan indicated, I'm a shareholder at the Vogel Law Firm in Fargo. I have been there as a shareholder since 1997. I'm from Milner, North Dakota, a native North Dakotan, and an NDSU graduate.

The question is why am I here? As an MSBA Certified Employment and Labor Law Specialist, I have represented employers, primarily, since 1997—

5. *Voices of Allies: Communicating Within the LGBTQIA+ Community*, UNIV. OF N.D., https://calendar.und.edu/event/voices_of_allies_communicating_within_the_lgbtqia_community?utm_campaign=widget&utm_medium=widget&utm_source=University+of+North+Dakota (last visited April 7, 2023). Shortly after this program, Dr. Maliskey earned his Ph.D. in Education, Health, & Behavior Studies with an emphasis in Higher Education from UND. He became the Director of the UND Pride Center in August 2022. According to the UND website:

Jeff brings over a decade of student affairs experience working with student affinity-based resources and support centers at Ferris State University, Grand Valley State University, Aquinas College, and the University of North Dakota. Jeff's higher education practice is student-centered and justice based as means to work towards equity and inclusion in higher education.

Id. Jeff and his husband, Mark Maliskey, both originally hail from Michigan.

so twenty-five years. A lot of what I deal with is in the area of discrimination and harassment. One of the main objectives of my practice is to be value-added to employers—to provide training for employers to help them with preventative measures, which includes education and training on harassment and discrimination. I welcome the opportunity to talk about LGBTQ+ discrimination and initiatives today, but I don't think any of us mean, by focusing on LGBT issues, to indicate there aren't other areas of discrimination that also deserve our attention in the bar association of North Dakota.

I am also here because, although I started with Vogel in 1997 as married to a man and mother of two children, I am an out and proud lesbian and have been since 2010. If you do the math, you can figure that I spent 13 years with the Vogel firm in a traditional role as a heterosexual female, mother, and Scandinavian. And in 2010, I made the transition to working as an out, gay lawyer in North Dakota. So, I hope that's something this panel can focus on—what were some of the stumbling blocks and biases I might have experienced at that time, and compare them to what kind of progress we have made, and how can that be a map for students going forward, and for all of us as attorneys and working with our clients.

When I was asked to do this, I thought about a few instances of LGBTQ+ discrimination in North Dakota. This reminds me of a true story, probably about ten years ago, and I will protect the identities of the people who are involved. There was someone in the bar association, and we were talking about doing this kind of a program at that time, and the individual that was approached said, “are there even LGBTQ lawyers in North Dakota?” So, you know the awareness at that time was just that—that the LGBT community was not represented in the legal profession. That wasn't the case, but there was not the awareness there is now. Yes, there are students, there are attorneys, and paralegals. I also thought about how far we have come since then.

What kinds of bias and discrimination do LGBTQ+ lawyers, law students, and our clients still face, and what can we do about that? I want to talk as an employment lawyer about what laws protect LGBTQ+ individuals. And finally, this whole group—I'm honored to be amongst them because of the wealth of knowledge they bring is really far beyond what I have as an employment lawyer. How can we break down those barriers, reduce the biases, increase diversity and inclusion within the profession, and be welcoming to persons in need of legal services?

I offer this LGBTQ+ glossary of definitions, because I recently attended a seminar in which the individual said one of the issues, in a prior seminar, was that there isn't a common understanding of the definitions. I am going to leave further explanations to Jeff, who has far more experience and expertise

to really drill down on any questions about these terms. This is just a basic definition of what are we talking about when we talk about LGBTQ+ individuals. Well, L—lesbian: a woman who is sexually attracted to women. G—gay: a man who is sexually attracted to men. Some lesbians prefer to be called gay women, so gay can refer to both men and women. B—bisexual: someone who is sexually attracted to both men and women. T—transgender: these are individuals who I feel have experienced some of the most virulent discrimination in the community. Again, this presentation is timely because yesterday was the International Day of Transgender Visibility. The Biden administration recognized that and made some changes to recognize the dignity and respect of people in the transgender community. The transgender community involves people whose gender identity or expression is different from those typically associated with that assigned at birth. Q—queer is an umbrella term. I have read, in one of the documents I was looking at, that queer is frequently used by younger people as an umbrella term for those who do not feel they are adequately categorized by traditional definitions of sexuality or gender.

Nonbinary people do not identify as female or male, or they may at different times identify at different points along a spectrum. When you get past LGBTQ, you sometimes you get to IA (LGBTQIA) and others. I—intersex: refers to a person who is born with reproductive or sexual anatomy that doesn't fit the typical female or male definitions. A—asexual: individuals who don't experience sexual attraction necessarily to either gender. Another definitional distinction is sexual orientation versus gender identity. Sexual orientation is a term for who individuals are attracted to physically, romantically, emotionally. In some of the older writings, and even some of the older statutes, you see the term "sexual preference," which is not a term welcomed by the LGBTQ+ community anymore, because it implies that sexuality is a preference and not something that's innate. So that's good distinction to remember, because you'll still hear people say that. Gender identity is the term for a deeply held sense that individuals have of themselves about which gender, if either, they relate to. Cisgender refers to a person whose gender identity matches the gender that they were assigned at birth. I am a female, cisgender lesbian because my gender identity is that of female. If my gender identity were that of a male, I would be considered transgender. Again, transgender individuals are those folks whose gender identity or gender expression does not match that assigned at birth. And nonbinary or genderqueer folks are people who don't necessarily, at any point in time, feel they fit in any of those pigeonholes that we want to categorize. They don't necessarily identify as female; they don't necessarily identify as male. Those are some definitional terms, to make sure we are all talking about the same thing as we go forward today.

I also want to talk a little bit about the legal landscape for LGBTQ+ individuals. That's where my employment law practice comes into play. I certainly have dealt with, I think, pretty much everyone in the LGBTQ spectrum in dealing with cases over the past twenty-five years. I will provide a brief review, and I know Professor Traynor has a wealth of history and knowledge in the evolution of the law as it applies to LGBTQ people.

The history of LGBTQ+ people is one of rampant discrimination and revulsion towards individuals by the legal system. Discrimination was condoned by the legal system and was entrenched, really, in our society and in our legal system for years. When you look at it, it's really shocking.

I will discuss a couple of cases. *Bowers v. Hardwick* was a 1986 case—to me that's recent; my oldest child was born in 1986. In *Bowers v. Hardwick*, the U.S. Supreme Court upheld a Georgia sodomy law. States had sodomy laws at that time, which essentially criminalized any homosexual, LGBTQ, intimate contact between partners. It took another seventeen years, until *Lawrence v. Texas* in 2003, when the U.S. Supreme Court overruled the *Bowers* case. Justice Kennedy wrote the decision in that case, recognizing that *Bowers* was wrongly decided; that consenting adults had the right to engage in consensual, private, same-sex conduct. But 2003 is not that long ago, when you think about intimate personal relationships for people in same-sex or non-conforming relationships to have had their conduct criminalized up until that time.

In a more recent decision, *Windsor v. United States* decided in 2013, Edith Windsor was the plaintiff in that case. She was an elderly lady in her eighties who had been married to her partner, I believe in Canada in 2007. She was challenging the Defense of Marriage Act (“DOMA”), which prohibited federal recognition of same sex marriages. And in 2013—so we're ten years past the decision in *Lawrence v. Texas* saying same-sex conduct is not unlawful—we get to *Windsor* which struck down DOMA. Then June 26, 2015—a day that many of us remember—United States Supreme Court Justice Kennedy wrote for the Court in *Obergefell v. Hodges* and ruled that it is a fundamental right to marry and it is guaranteed to same sex couples. And these are the words of Justice Kennedy—many people in the LGBTQ community post these words as artwork, as you can order this online—Justice Kennedy wrote very profoundly:

No union is more profound than marriage for it embodies the highest ideals of love, fidelity, devotion, sacrifice, and family. In forming a marital union, two people become something greater than they once were. As some of the petitioners in these cases demonstrate, marriage embodies a love that may endure even past death. It would misunderstand these men and women to say they disrespect the idea of marriage. Their plea is that they do respect it, respect it so deeply

that they seek to find its fulfillment for themselves. Their hope is not to be condemned to lives in loneliness, excluded from one of civilization's oldest institutions. They ask for equal dignity in the eyes of the law. The Constitution grants them that right. The judgment of the Court of Appeals for the Sixth Circuit is reversed. It is so ordered.

Justice Kennedy noted that the plea of the plaintiffs in that case is that they so respected marriage that they seek its fulfillment for themselves, not to be condemned to live in loneliness. And the last four words of Justice Kennedy's opinion, as with all opinions, were "it is so ordered." Four words. Four words that changed the lives of many people and changed my life. That's my life—that's my wedding picture to my spouse in 2016 [*shown on the slide*]. So, I'm grateful to Justice Kennedy for that.

The *Obergefell* and *Windsor* cases addressed same-sex marriage rights and the protection that was afforded same-sex relationships, but didn't address any employment protections. And the statement that went around was "married on Saturday, fired on Monday," because that was still lawful in the vast majority of states in the United States. So, I want to talk a little bit about the employment protection aspects, and where we stand in North Dakota and Minnesota right now, in terms of the state of the law for employers of any size.

In 2020, the United States Supreme Court heard a trio of cases. In *Bostock v Clayton County*,² there were two cases involving gay men who were terminated from their employment after it became known that they were gay. A transgender female was the plaintiff in the *Harris Funeral Homes* case. In that case, a funeral director who was biologically classified as male at birth had informed his employer he intended to transition to female and was terminated as the funeral director. In the *Bostock* set of cases, Justice Gorsuch wrote that Title VII of the Civil Rights Act of 1964, which applies nationally, prohibits discrimination in employment on the basis of sex—that the words "based on sex" definitionally included sexual orientation and gender identity. That was a massive decision.

Frankly, amongst those of us and many people in the employment law bar, it wasn't known how that decision was going to come down, because there was a significant conservative contingent on the Court at that time. But as the slide shows, Justice Gorsuch indicated, "An employer who fires an individual merely for being gay or transgender defies the law." And that is the law under Title VII, federally, following the *Bostock* case.

But what are the limits of *Bostock*? That's a frequent question, because *Bostock* itself only addresses federal law. And as Morghan indicated, there are still gaps in protections for LGBTQ individuals throughout the United States in many states, because Title VII only applies to employers with fifteen

or more employees. Many small employers fall within one to fourteen employees and don't fall within the purview of *Bostock* or Title VII. So what happens in those states? State laws in many states don't address "SOGI" protections—"sexual orientation, gender identity"—including North Dakota. The North Dakota Human Rights Act does not provide SOGI protections. The North Dakota legislature has tried and failed many times to pass protection based on sexual orientation and gender identity. And the really discouraging thing is that the votes have gotten worse. Not only do they continue to fail, they've gotten worse, and there have been more opponents of it. What you continue to see, in the world that we live in, in the United States that we live in, you see a lot of regressive legislation. It's going on everywhere—rampant, regressive legislation, particularly against transgender individuals. For example, the "Don't Say Gay" law in Florida about education and what can be taught to children in schools. And even proposed criminal penalties for parents and others providing gender-affirming care or gender-confirmation surgeries for individuals who are transgender.

The good news is that in North Dakota, even though our legislature has not passed any amendment to the North Dakota Human Rights Act that protects people on the basis of sexual orientation or gender identity, the North Dakota Department of Labor and Human Rights, which is the enforcement agency for the North Dakota Human Rights Act and handles complaints—housing complaints, public accommodation complaints, employment complaints—in North Dakota based on discrimination. The Department of Labor and Human Rights announced, shortly after the *Bostock* decision came out, that its interpretation of the North Dakota Human Rights Act following *Bostock* was going to be consistent with *Bostock*. So, the North Dakota Human Rights Act does include a ban on discrimination based on sex. And the North Dakota Department of Labor and Human Rights interprets that to include sexual orientation and gender identity. If you go to their website, you will see that they will accept complaints of discrimination based on sexual orientation and gender identity.

Minnesota has been ahead of the curve on this one. In 1993, Minnesota became the first state in the country to ban discrimination based on both sexual orientation and gender identity.⁶ So, that protection has been available in Minnesota for thirty years. But the *Bostock* federal decision, I think, has potentially opened the door to broaden the interpretation of the protection afforded under the Minnesota Human Rights Act.

6. *History*, MINN. DEP'T OF HUM. RTS., <https://mn.gov/mdhr/about/history/> (last visited Mar. 20, 2023) ("1993[:] Sexual orientation, which includes gender identity in statute, was added as a protected class in the areas of employment, housing, public accommodations, public service, educational institutions, credit, and business discrimination.").

So where are we now? Despite the law—you can pass laws, but passing a law doesn't necessarily change the culture. And there are some good things happening. In 2004, 1% of lawyers in the U.S. identified as LGBTQ. In a 2019 NALP (National Association for Law Placement) survey, 2% of partners, 4% of associates, and 7% of summer associates identified as being LGBTQ+ or some sort of gender non-conforming identity. And those are much more realistic numbers. That's encouraging, because it suggests that people have felt a change in the culture, such that they feel they're able to identify. It's not that only 1% of U.S. lawyers were LGBTQ in 2004—only 1% of them felt they could identify and not risk their jobs.

But the task, as Morghan indicated earlier, is far from complete. In an ABA study based on data taken in 2018 and 2019 of individuals in the LGBT community and the disability community, 40% reported that they had experienced either implicit or explicit bias in the workplace and in practicing law. So, that is the challenge before us. That's a recent report; that's a nationwide report. It may be that the number who would report in North Dakota would be even higher than that, given that North Dakota is a fairly conservative state; I don't know. That's the challenge ahead of us.

With that, I would yield the floor to my distinguished panel members here for their comments and for any questions from any of you. As Morghan indicated, you can write them on note cards, or you can submit them in the chat box online. Thank you.

Morghan Piper (00:33:57)

Thank you, Lisa, for your phenomenal presentation and introduction to our discussion today.

I'd like to open the floor to our other panelists to jump in with answering questions we have had posed on Zoom and prior to our events today.

The first question is, "For someone in private practice, has there ever been a conflict with a client who may not have known about your identity until representation had already started and had an issue with it?"

Paul Traynor (00:34:25)

Well, I haven't spent a great deal of time in private practice; most of my work professionally was in corporate situations. I appreciated Lisa's presentation, and it's spot on. In some ways, the corporate world—when it comes to incorporating nondiscrimination policies in their operative documents—corporate America has been ahead of a lot of public policymakers, as Lisa pointed out, with respect to repealing things like sodomy laws. What really, I think, precipitated that from a corporate perspective was the attention that was brought to the gay and lesbian community as a result of the AIDS crisis.

Now I lived through that period, and I engaged in legal work on behalf of the Minnesota AIDS Project for several years out of law school. So I saw

a very ugly side of it, and experienced a very ugly side of it, as a *pro bono* attorney. One of the few things that I think may have compelled that experience for our country was it drew attention to the plight of gay and lesbian people and how they were treated as lesser citizens. Lesser citizens in terms of the law, public policy, and health care.

In terms of any conflict that I had in the corporate world, there's a book out there on display [*in the foyer, along with other books addressing these issues*], called *The Corporate Closet*, and that's really where you were. You didn't talk about it. You would refrain from trying to go to corporate events if you had a partner, because they would meet all of your coworkers, people you had to deal with every day, your bosses, senior management. And so, you had to make that decision for yourself. Was it easier to be a chameleon and just hide and fly under the radar with respect to human sexuality and your personal life? Was it necessary for you to keep your personal life and your corporate life separate? Was that something that you needed to do in order to survive, in order to hold on to your job, and with your job, your health care, and your retirement, and the associations that you have with the people you work with on a day-to-day basis? Were you going to be seen as maybe a risk to the team? So, depending upon where you worked, and what that corporate culture was, you had to make that decision for yourself. And there were risks at that time—in the 1980s and 90s, and even into the early 2000s—of coming out of the closet, because you had a lot to lose. It wasn't just in the cases of a lot of people where you lost your family—you could lose everything.

One of the issues that we were confronted with at that time as law students, and you think of it now as being ridiculous, but the question was: would we pass the character and fitness portion of the bar exam? Because you have to attest that you're not violating any laws. But by your personal behavior or your sexual orientation, you may be violating a particular state's laws. Did that make you ineligible to become an officer of the court after three years of law school? You think of that as being ridiculous and novel, but, at the time, that was an issue that many gay law students had to struggle with and deal with. Would I be unfit to be sworn in as an officer of the court? So with respect to an individual client, no, I didn't have that issue. But you had to make that determination on your own. It was safer for you to just keep your mouth shut and not expose any part of your personal life. That's just the way it was. I'll defer to Jeff.

Jeff Maliskey (00:39:22)

I can't speak from the legal practice point of view, but I think we see the story over and over again that you had to hide your identity, because you could lose everything. In the 1950s we had the presidential executive order terminating people at the federal level, federal employees who identified as gay—like you can't serve and you're unfit.

We continue to see discrimination into the 1960s and 70s, then the 80s with the AIDS crisis. The 1990s is when we really started see more anti-gay legislation targeting people, such as in the military service with Don't Ask Don't Tell, then the Defense of Marriage Act in 1996, and then even further on college campuses, with Matthew Shepard's case—the University of Wyoming student who was murdered just because of his sexuality. And that really got people thinking that, wow, this is something I'm seeing on national TV—if I'm coming out and exposing myself in this way—this is life or death. So, it really was hard for people to make those decisions. I want to be authentic to myself, but what's the risk? Is it my life? Is it losing my employment? These were concerns that people really had up until 2020—even still today, depending on some of the jobs that they have, because there were no legal protections. It goes state by state, so here in North Dakota we don't have any protection. You go next door to Minnesota, and you have protection. Go to South Dakota—nothing. If you go to Michigan, and you might have a little bit. So, the laws vary state by state. And people didn't know what the policies or laws were because it is constantly changing. Sometimes there would be great wins, and then they would be reversed. We still continue to see that today. I think of the case, if you have been watching the news around marriage equality in Bermuda—they had passed marriage equality in Bermuda, and then it was reversed. So, nothing is guaranteed in the law. I think that's a piece always in the back of people's minds as they continue to engage in their livelihoods.

Lisa Edison- Smith (00:41:25)

Well, I can comment on that as someone who, thirteen years into my practice, made that decision. I had been divorced, and then within a year of that I came out. The first thing I did, of course after talking to friends, is to talk to Bill Schlossman. People in the bar know Bill well; Bill was the president of the firm for many years. I just said, this is my intent, and this is what I'm going to do. I had lunch with Bill, and Bill assured me within the Vogel Firm that it would not matter. He gave me his assurances it will not matter. For the largest part, it has not mattered. I'm blessed to be with the Vogel Firm. The Vogel Firm has a long history of equality. Mart Vogel hired Myron Bright when Myron Bright was having difficulty finding a job because he was a Jew. And Mart Vogel said, "I don't know what difference that would make." So, I count myself fortunate to be among people who have that kind of history.

But it was a real concern to me how my clients might react to that, and whether or not I would lose clients. I talked to Bill about that—will I lose clients?—because I had a large, thriving practice at the time. I don't advertise to clients and say "Lisa Edison-Smith, lesbian lawyer," because that's not how I introduce myself. Because in most cases, it's not relevant to the legal

advice that I provide to them. So, I don't do that. On the other hand, I was 50+ years old when I came out, and I was not interested in remaining closeted at all. So, have I lost clients? I would say yes, I have lost some conservative, religious clients. Has anybody ever said it to my face? No. No one has ever said a word to me to my face. That's North Dakota nice. It's bias; it's invidious bias; it's no less harmful than express bias that comes to your face.

But, I think my experience is different because I already had an established practice. One of the things I learned is, for the most part, on a one-on-one basis, as long as I continued to do good work for people, I had good enough relationships with them that many of them admired me for making the decision. Many of them probably privately cursed me, but they said, "you know she got us out of that jam," or "she worked with us." I think that experience is probably a lot different from people who are coming into the profession as law students, and that my experience is different because I already had that client base, and I had that reputation in the client base.

No one ever said anything to my face, except one nameless partner. I don't think he did this out of any sort of malice. He asked me to go to lunch with him, and I went to lunch with him. And he said, "I didn't even know you were divorced." And I said, "yeah, we're divorced." And then he noted that I had come out as gay and asked "do people know this?" I replied, well, I don't know if they know this. And he did question whether I would lose clients. I said, "I've thought about that, clearly, but frankly, if I do lose clients, they're not clients I want, so that's okay, because I don't want people who were going to judge me on that basis."

Morghan Piper (00:45:53)

Thank you, everyone, for your responses.

The next question that we had posed live over Zoom is, "As a lawyer or other legal professional, how can I make it clear to the LGBTQ+ community that my office is a welcoming place for them to have their legal needs met?"

Paul Traynor (00:46:33)

I think you treat everybody as you would wish to be treated, regardless of who they are.

I think Martin Luther King, Jr., was right. It's the content of a person's character that is the most important thing. It isn't what they do when the doors are closed in their bedroom; that's immaterial to your professional capabilities and your responsibility. It's unimportant. It has always seemed anathema to me that people think it is.

Like any other part of your character, whether it's your race, your religion in the case of Judge Bright, or anything else, why should it make any difference? It's the quality of the work. As Lisa was saying, it's the quality of the work and the content of your character that you bring to the table that's the most important thing.

You're not being hired because you're a gay lawyer. You're being hired because you're a good lawyer!

Lisa Edison-Smith (00:47:37)

One of the things I want our firm to focus more on is presence—being present to the LGBTQ community. Fargo has Pride; Grand Forks has Pride—being there and having a booth indicating that we're available and we are welcoming to everybody. Pride events used to be really just based on things people thought would be of interest to LGBTQ people. I love the fact that at Fargo Pride, now suddenly the business community realized gay people need windows! They need plumbing! They are there. Businesses are making it known that they're available to provide services. That's one way—being a sponsor of a Pride event and those kinds of things.

It used to be, ten years ago, I did get calls, "I have a client who has a major estate issue that's LGBTQ. Can you refer me to someone who will treat them respectfully?" And I thought, well, if they're with my firm, they had better treat them respectfully. But yes, that was an issue, and I think you got referrals by word of mouth. Now, I think just being out there and being visible is a big plus. Gay people do need windows and plumbers, and they need lawyers too.

Paul Traynor (00:49:10)

One of the things that I did when I graduated from law school here, I moved to the Twin Cities and went to a job fair for organizations that you could volunteer to do *pro bono* work for at the Hennepin County Government Center in downtown Minneapolis. I went to it thinking I could volunteer for any number of organizations, helping the homeless, animals, whatever. I saw this woman at the end of a long hall, if you've ever been to the Hennepin County Government Center it's large, and she had this big sign above her booth that said "MAP." Nobody was going up to her booth. I thought, well what's going on with this "MAP?" My intellectual curiosity drew me to it, and I met a woman named Gail Dixon, who was the legal director of the Minnesota AIDS Project. I started talking with her about the need that they had. I had started to work in the insurance industry, and they needed people who understood and had some background in insurance. So, I started to do clinicals for them. About once every other week, I would go in for an evening, as would other volunteer attorneys. You didn't know what the lineup was going to be. You didn't know if it was going to be eight clients or four clients, or what their issues were going to be, whether it was an estate matter, whether it was a family law matter. They were all people who qualified for assistance. Now they were not all gay men or women, many of them were IV drug users and prostitutes who had contracted AIDS.

It got to the point, through the years that I did this *pro bono* work, that eventually I became an on-call attorney for Minnesota Aids Project. So I'd

be working in Edina, Minnesota, and I'd get a call from Gail Dixon saying, "I need you to meet me as soon as you can get there at Northwestern Memorial Hospital," or "Hennepin County General Hospital at this room. We have someone who needs to execute an advanced directive"—then it was called a living will. "We don't know if the client is going to live through the night." So, I would show up; she would be there because she was a notary. I would have to establish that this person had the mental competency; they knew where they were, who they were, the fruits of their wealth. And so, I did that for several years. I finally got to a point where I just—you saw at that time in the late 80s, in the early 90s, so much despair and the painful lives that some of these people had lived and gone through, and the discrimination that they had suffered. When I stopped doing that work in the mid-90s, I thought that it was behind me.

About three or four years later, I got a call from a lawyer in Minneapolis, and he asked me about a clinical I'd done for a gay couple. I remembered this couple, because very few of these people had any kind of material wealth; otherwise, they would go out and hire a private attorney. But this couple had a house that was in a nice area of South Minneapolis. I said, "well, tell me more about what they were meeting with me about; what was their legal issue," and he started talking. And I thought, you know, this is very familiar to me, because very few of the clients that I advised on behalf of MAP had any kind of material means, which is why they qualified for legal services through our organization. I said, "I don't know if this will help, but I saved every one of the calendars that I had when I did clinicals for the Minnesota AIDS Project." He asked me, do you have a copy of the documents of the will? What the partner had wanted was a life estate in the surviving partner, who did not have full blown AIDS, and then when he vacated the home or he passed on, then the house would revert to the family of the partner who had it in his name. I said that wasn't the protocol—the original documents went with the client, and a copy was kept by Minnesota AIDS Project, so I never kept a copy of anything. But when he started talking, I said, "I don't know if this will help, but I kept all the calendars that I had, and I wrote down the names of all the clients that I met on any given night. Can you identify for me the names of the people I may have met with and the dates?" I found the calendar, and sure enough behind their names I said "life estate to surviving partner, fee simple reverts to original owner's heirs." I called him back and said, "I don't know if this will help, but I'm willing to execute an affidavit as an officer of the Court. I'll enclose a copy of the calendar, with their name with exactly what they wanted me to do as the *pro bono* attorney, and I will go ahead and send that to you." I did that and, by God, it worked! The Court took it, and accepted it, and said it was the original intent of the owner of the house that his partner—although there was no legal marriage at that time,

they could not be legally married—but he wanted to leave a life estate to his longtime partner, and the Court accepted it!

So, if you think at the time that the work you’re doing for any organization—in my case it happened to be for the Minnesota Aids Project—if you think that it isn’t accomplishing anything, you’re wrong. It is. And that story and the experience I had proved to me that the hours and the time I volunteered to help that organization and the clients it sought to serve—it really does make a difference! At least in their life, it made a difference.

Jeff Maliskey (00:56:02)

Going back to the question, what I heard is “how do you create an inclusive practice?” I work with K-12 educators, with medical professionals, and with the med school, among others. I always tell them to think of the visible cues you can give to somebody when they walk into your space, whether it be your office, your organization, wherever you’re doing your work. If you’ve gone around Grand Forks, you might have started to see the Grand Forks PD’s (Police Department’s) Safe Place Initiative. I know there’s one at Michael’s, that’s the most recent place I saw it. So, there are little indicators like that—a little rainbow sticker that might not have any type of meaning to some people, but for someone who identifies as part of the queer and trans community, they understand: “hey, I get it—this is a place where I would be welcome.” I suggest those kinds of indicators for your office or in your practice. I’m not wearing any of my Pride buttons today, but I have a rainbow watch.

Paul Traynor

I’m wearing my UND Pride pin from Jeff.

Lisa Edison-Smith (00:56:57)

Our law firm just posted on our Facebook page “Happy Pride Month!” Things like that—it’s small, but that’s our part of our presence, to let people know we welcome anyone.

Jeff Maliskey

It’s those little things that really make a difference—you can provide those easy, visible cues.

Morghan Piper (00:57:18)

Thank you for your responses.

Our next question is “Historically how has advocating for LGBTQ+ rights been different for different racial groups?”

Paul Traynor (00:57:31)

I don’t know that I can speak in terms of different racial groups, but I can speak in terms—and Jeff has interviewed me a couple of times about this—about LGBTQ rights on this campus. I was a Student Senator from the College of Arts and Sciences back in 1984. I was contacted by a group of people, men and women, about starting a student organization for gay and

lesbian people on this campus. I was getting ready to head into law school here in this building, and I told them that I would be happy to help draft the bylaws and the articles of incorporation to get the organization approved. We couldn't meet in the Student Union. We were not a recognized student group. Even though I was elected by the students from the College of Arts and Sciences as their Senator, I could not hold a meeting of any organization that was not recognized by the student government, and as a result not recognized by the University, to hold a meeting on the campus in a campus building. So, we met in a building that is no longer there, but it was right on the corner of University—across from our law school there used to be a United Campus Ministries building, and the minister there allowed us to meet, and that's how we got organized.

Then, we got involved with a woman who was the director of the Memorial Union at that time, Maryanne Lustgraaf, who was out and proud as a lesbian. She helped us navigate the process. At first, the Student Activities Committee turned us down. They tended to be a more conservative element in the student government. But we were ultimately successful, as you know.

Because of the stigma of being gay, and at the time during the AIDS crisis, we felt we could not use “homosexual,” or “gay,” or anything else in the name of the organization. So, we settled on the “Organization for Alternative Lifestyles.” That turned out to be an absolute disaster, because we started to get interest from people who came from countries that had no acceptance, or exposure, or tolerance for anyone who is gay or lesbian. So, they quickly changed the name, I think to the Ten Percent Society. In terms of different races, I'm not sure I can speak in terms of that, but I can in terms of the struggle, at least on a local level, and gaining some kind of legitimacy from the University. But Jeff, you are writing about some of this in your research, so take it away.

Jeff Maliskey (01:00:41)

I think some of the challenges we see really stem back to our historical understanding of how people are discriminated against at the intersections of their identity, especially around race and ethnicity. If you think about Stonewall, for example, that's a pretty well-known event in our society for gay rights. And I'll say “gay rights” because that was the language utilized at the time; we were not talking about transgender or gender-diverse people at that time. But when we go back and dive through our history, we know that there were people like Marsha P. Johnson and Sylvia Rivera, people of color who were really leading those efforts—but those who benefited from it were primarily cisgender gay men. That has been the narrative.

It really hasn't been until the last five years, when we started to even recognize or even talk about the intersection of identity and the plague that

continued to impact transwomen of color. And we continue to see that today. Every November 20, we have the Transgender Day of Remembrance, where we recognize the people who have been murdered on the basis of their gender identity or gender expression. And that number keeps growing. I believe the numbers were in the high 40s, and it's constantly going up every year. I would say more than 80% of those who are murdered on the basis of their gender identity are primarily Latinx and Black women—transwomen. So, I can tell you about the disparity even within the LGBTQ+ community. And what's the stance that is going on in terms of advocacy? Those are some of the challenges.

We've even had that situation here on UND's campus. A majority of those who have been involved in the organization have been white. It was the Organization for Alternate Lifestyles; then the UND Gay and Lesbian Community; the UND Gay, Lesbian, and Bisexual Community; then it became the Ten Percent Society; now the Queer and Trans Alliance—the name has changed. We came up with about forty years of the organization existing on UND's campus starting in 1981 or 82, I think there was a gap year—but the membership has primarily been white students. We don't see a big interaction based on race and ethnicity.

Even in the 90s, we have a lot of *Dakota Student* articles that really attribute this lack of interaction to a high level of racism, and discrimination on the basis of race and ethnicity, on our own campus—we have that here. You can go back just to 2015, 2016, even today, and we're still having those conversations.

There's still a big challenge of what it means to hold an intersecting identity, to be LGBTQ or queer and trans and also have an identity such as being Black, or even if you add the extra layer of being a queer disabled person on our campus. These are some of the challenges we still have to face.

And people just aren't comfortable, because of where we're at in our society, advocating for specific rights around the intersections of identity. It is still primarily benefiting gay men. Think about the legislation in Florida, the Don't Say Gay bill, or anti-trans legislation. You're not having those conversations about the systemic problems that we're having with race and ethnicity, with LGBTQ people, and those intersections out there—they're not merging together. We saw this type of conflict in the past, too, as we think about what was happening in the 1960s, 70s, and 80s where you had the feminist movement, you had the racial movement for equality, and you had the gay liberation movement. They don't mesh well. There's a lot of conflict. We still see that long-lasting impact today in terms of the advocacy. So, we still have a long way to go. You think we'd be there 2022, but we are far from it.

Lisa Edison-Smith (01:04:21)

As an attorney in private practice, too, one of the things that I think is a challenge for all of us in the bar is to open our own minds and educate not only ourselves as individuals, but also our colleagues, about, for example, the hurdles faced by LGBTQ people of color. There's no question that they are substantial. And to make it a priority when we are recruiting, and when we are hiring summer associates, and looking at students—to recognize that we have those biases and to try to overcome them. Really, I hope we put the word out in the bar that we need to be doing this. We need to be aware those biases are there. We haven't met our obligations. People have been left out. We've left really good, competent people out.

And, the solution to that is 1) to admit it and to be aware of it, and 2) to then address it. What do we want, for example, as a law firm; what does my law firm want? We want a more diverse attorney base. It benefits all of us. Having different experiences, different opinions, benefits all of us as lawyers. It benefits our clients. So, I would just say yes, there are different experiences, and yes, we have to acknowledge them. I really hope going forward for the next twenty years (I won't be practicing law then and will hopefully be retired on a beach somewhere) that law firms take that initiative, and that they work with the schools, to try to broaden the base of people that they're considering.

Paul Traynor (01:06:13)

When I was a student in this law school, we had no African American students. We had no Hispanic American students. We had no Native American law students that I was aware of. I look now, as I teach classes, and in particular, with the number of students I have in first-year classes, and I like what I see. I have this criticism of our bar association. The UND School of Law has done a much better job. We've still got a long way to go. But we've done a much better job of diversifying our student body when it comes to issues of sexuality, LGBTQ, race, however you want to broaden that, we've done a much better job than the North Dakota bar association.

I was astonished to find out from Judge Foughty that we have yet to have a Native American District Court Judge appointed to the bench in this state. I'm astonished by that—because they are the largest racial [minority] group in the State of North Dakota, and never in our history has one of them served on the district court. And we have Native American lawyers—so what's the problem? I'm critical of our profession in this state when it comes to its lack of diversity, because I think the UND School of Law has done a better job. We are constantly trying to expand the diversity that we have among our student body, because I think it adds to the profession.

Morghan Piper (01:08:06)

Thank you, everyone. We have another question that was posed live on Zoom: “When considering that North Dakota is an at-will employment state,

how do you prove an employee was terminated because of their sexual orientation, when no reason was offered for the termination?"

Lisa Edison-Smith (01:08:26)

This is always a difficult one, I've said this for years, and it's not necessarily limited to LGBTQ people; it applies to people of color, individuals with disabilities. Only the dumbest employers are going to actually say "we don't want any LGBTQ people here; we don't want any Blacks."

But believe it or not, strange things do happen. There's the case in the Eight Circuit, where a transgender individual applied for a position using a female name, came in dressed as a male and presented as a male and was offered the position. And then someone came in and talked to the supervisor, who was interviewing the person, and they had a private conference, and all of a sudden there was not a position available. Well, that's pretty strong circumstantial evidence.

If you haven't studied employment law, I encourage you to consider it. The McDonnell Douglas test is the gold standard. It's a burden-shifting test, and basically, first the employee has to establish the minimum case or prime facie case that they're in a protected category, they suffered some adverse employment action, and something that links it to their protected category. Then, the employer can provide the employer's legitimate, nondiscriminatory reason. And again, all but the dumbest employers can do that. And then the burden shifts back to the plaintiff to show that the discrimination was the real reason—and that is subtle, that's where implicit bias arises. North Dakota nice—sure it's out there.

In the legal profession, in particular, you look at things such as assignment of the best casework. Maybe someone comes out, and then suddenly they're not assigned the premium cases, the good work anymore. Their promotions—they're not promoted along the partnership trail. They're not being promoted to partner. Those are the subtle things.

What I encourage anybody to do is, first of all, notice these instances, keep track of them, document them. And don't necessarily let them accumulate before you bring them forward. You bring them forward, if you're in a small law firm, to one of the partners. You bring forward to the human resources people and say, "this is the way I'm feeling." But if you get to litigation, that is a difficult burden.

Judge Benson, a long-term Federal District Judge in Iowa, always says if you're going to take forward a case of discrimination, you have to think about how are you going to show that the reason the employer gave was pretext, and the discrimination was the real reason? There are lots of ways to do that—to show that other people were treated more favorably. That suddenly after you came out, or it became known you were transgender, or you started

transitioning—after that information came out, your situation changed, and other people didn't have the same experience. That's the thing that I would focus on.

Paul Traynor (01:12:02)

Another challenge you have from a legal perspective is that so many employees are at-will employees. So, proving that they were discharged or terminated from their employment as a result of sexuality, race, etc.—some invidious means—is particularly difficult to prove. In advising human resources departments in the corporate world, we had nondiscrimination clauses within our human resources policies that had been adopted by our board of directors and senior management. But only the dumbest employer is going to document why anyone was ever terminated. They're terminated just because it didn't work out. But there could be that hidden reason that is sometimes behind these decisions. It isn't just because this person was incompetent. It isn't just because this person wasn't a team player. And being able to establish a pattern of that kind of discrimination is a very difficult thing to be able to prove, because employers don't document those things.

And if you're contacted as an employer for a job reference, they say, "did so-and-so work for you?" The only thing that most employers are going to disclose is the employee started on this date, maybe you'll disclose the title of their position, and that they left on this date. That's all employers are going to say, and they don't document anything regarding anything else.

Lisa Edison-Smith (01:13:53)

Well, I can come at it from a different perspective advising employers. Because I think the best employers do document. They don't document an invidious reason. But as we sit here in 2022, employers should document what true performance issues are.

Paul Traynor

Yes, I agree.

Lisa Edison-Smith

There should be documentation of an annual performance reviews at least, and the lack of that kind of documentation of prior issues—that really undermines an argument that this was based on a merit issue and not based on one of these invidious classes. I do want to really emphasize, particularly to any of the attorneys out there, that it's important to emphasize to your clients that discrimination laws always trump at-will employment. Now, as Paul has indicated and as Morghan has indicated, it can be difficult to prove that, but employers need to be very, very much aware that at-will just does not do it. So just saying "we're not going to tell them" in those kinds of difficult situations, when you've got someone in a protected category, no matter what it is, that is very, very risky.

Paul Traynor (01:15:18)

Lisa makes an excellent point. If the termination is for some legitimate reason that has nothing to do with the person's race or ethnicity, etc., it's a performance issue. That is something you do want to document, certainly, because you want that as your defense in the event they do raise some kind of discrimination claim. Thank you for pointing that out.

Lisa Edison-Smith (01:15:55)

And as a defense lawyer primarily, those are the easiest cases to defend, because you've got reams of documentation. Now that doesn't mean the documentation always wins the day, because there's always the question of "why did you document on this employee and not the other one?" And you want to look at that too. Has an employer been consistent—that they've documented everyone, that they haven't targeted and papered the file on a particular employee, which maybe was motivated by something other than just performance? I'm pleased that in the twenty-five years I've been able to work in North Dakota, I've worked with people who, by in large, are good employers. They want to comply with the law. They need education; they need to know what they can and should be doing—that's part of my job. But the good employers are going to be doing that—they're going to have real documentation. If there really are substantive issues, they'll be able to use that as a defense. But if they don't have them, someone who's bringing a claim can point that out—there's no documentation that this was an issue.

Morghan Piper (01:17:06)

Thank you, everyone. Our next question is in two parts; first, "How does the law protect an individual's right to use a restroom consistent with their gender identity?" And then two, "What suggestions do you have for UND or private employers in promoting individuals' use of restrooms?"

Lisa Edison-Smith (01:17:29)

The restroom issue has been a political football that has changed with the changes in the administration. I don't think that's a surprise. You went from the Obama administration that came out with guidance on restrooms, that people should be able to use the restroom of the gender that they identified with, to the Trump administration withdrawing that. And now there's been a pivot again in the political landscape.

OSHA—the Occupational Safety and Health Administration—has said employers have an obligation to provide a safe workplace, which includes restrooms, and they have restroom guidance. The preferred solution for OSHA is to have private restrooms that are private stalls and that are single-use. Now that's not always possible.

I don't know where we're going on this, but I don't see how—within the constructs of the *Bostock* decision that was made by the U.S. Supreme Court—how it's not going to be a violation of Title VII to deny people the

right to use the restroom for the gender that they identify with. Now, I think that's a gray area. It's still within the courts. But in general, if you can't discriminate based on gender identity or sexual orientation, then it seems to me it's discrimination to require someone to use the restroom of the gender they don't identify with—it is that kind of discrimination. But the jury's still out on that one to some degree, and I expect that we'll see more on that issue as things go forward.

Some states have tried to pass restrictive laws. You've seen the "You Can Pee By Me" T-shirts that became a response to some state laws that have tried to restrict transgender people. Which is a really interesting concept, because you see photos of transgender males with beards, and they look like very masculine males. And you say, "really, you want your wife to use the same restroom as this person?" And so, you know, it is a political football. Right now, I think it's discriminatory not to allow individuals to use the restroom they identify with, and I think we're going to see a lot more case law on this issue in the future.

Jeff Maliskey (01:20:24)

At UND, as part of our nondiscrimination policy and part of the Code of Student Life, you can't discriminate on the basis of sexuality, gender identity, or gender expression, so I think it falls under that policy. We've had conversations with our Title IX Coordinator, Donna Smith, as we were proposing the Gender Inclusion Policy on campus you're all familiar with, that got shut down due to external pressures. Some of the pieces in it indicated you should be able to use the restroom you identify with. And there should be no questions asked—that's a big piece of it.

But we find that a lot of our students aren't necessarily comfortable utilizing the bathroom that matches their gender identity. Because yes, it may associate with their gender identity and how they express themselves, but how are they going to be treated in that space?

We know in the K-12 schools here bullying happens a lot in the restrooms. I heard, in talking with some of the youth here in our K-12 schools, that we have some transgender students who will not use the restroom at school because it causes so much anxiety for them. Since they're not using the restroom, they have a higher chance of getting a urinary tract infection. We have students in the K-12 system who will wear diapers to school. High school students wearing diapers—how dehumanizing is that—because of their fears of utilizing the restrooms, of what will happen in that space. Those are some challenges we haven't had necessarily at this point at the University.

What we tried to do in the Gender Inclusion Policy is really advocate for, when new buildings are going up, including appropriate spaces—whether that be gender-inclusive spaces, or those single-user restrooms. Most of the time now they are single-use restrooms. To have that space for people

to feel comfortable—that’s really what we tried to advocate as part of that policy and moving forward. There are people who are cisgender who aren’t comfortable using public spaces, too. So, I think that’s what we’re starting to see—more single-user restrooms going down the line.

But there are still a lot of challenges because it’s not creating equitable spaces for people. We have got to have that balance. We’re also fighting against city codes and ordinances and all that fun stuff.

So, at UND, if a case were to be brought to our Title IX Coordinator, it would have to fall back to our nondiscrimination policy regarding how someone was treated in regards to being able to use the restroom based on their gender identity. That’s what we would turn to, at least on campus.

Morghan Piper (01:22:57)

As our final question to conclude our discussion today, “Are there any groups or organizations that non-LGBTQ+ members can join to help eliminate bias against LGBTQ+ community members?”

Paul Traynor (01:23:12)

Yeah. There are a ton of them. GLAAD—the Gay and Lesbian Alliance Against Defamation.

What’s the one for parents?

Jeff Maliskey

P-Flag.

Paul Traynor

P-Flag, if you are a parent or friend of a lesbian or gay person. What else comes to mind?

Jeff Maliskey

Lambda Legal.

Paul Traynor

Lambda Legal Defense. What’s the national organization?

Jeff Maliskey

Human Rights Campaign.

Paul Traynor (01:23:57)

Yes, the Human Rights Campaign.

So yes, there are all kinds of national organizations you can participate in—and as a lawyer with Lambda Legal—that you can participate in, if you are interested.

Jeff Maliskey (01:24:01)

On campus, while you’re still here as students, there are a lot of community-based organizations, like the Queer and Trans Alliance. You can join any organization on campus. It’s discriminatory not to allow students to join an organization on campus. We have the Queer and Trans Alliance. There is Pride Activism, a student group that is starting up as well. There is Students for Activism—another group that exists. You have organizations

here specific to law students. So, there's a ton of organizations out there, at least for you to join as students. And so many national organizations, there's regional based ones, and state-based ones like the North Dakota Human Rights Coalition. Just do a quick Google search. There's tons of organizations out there that you all can be part of.

Morghan Piper (01:24:50)

I'd like to extend my deepest gratitude to our panelists today for their participation. We know you all have busy schedules. We truly appreciate your ability to join us today and have these open discussions.

Please, everyone, join me in thanking our panelists today.

Additionally, please, everyone, join us directly across the hall in the Burtness Lounge for a brief reception. Thank you.

Lisa Edison-Smith, Paul Traynor, Jeff Maliskey (01:25:22)

Thank you.

The rest of this piece provides additional examples of initiatives to help advance equality and dignity for members of North Dakota's legal community, regardless of sexual orientation or gender identity. Law firms and other legal employers may use the information compiled below in considering their own workplace policies, procedures, programs, and community engagement activities.

Law Firm Initiatives

Law firms in our region have started taking visible steps to be more welcoming to members of the LGBTQ+ community. Ms. Lisa Edison-Smith provided an excellent and easy-to-implement example that the Vogel Law Firm posted "Happy Pride Month" on its Facebook page, and she encouraged law firms to sponsor annual Pride events, which take place in communities throughout North Dakota, including Bismarck/Mandan,⁷ Fargo/Moorhead,⁸ Grand Forks,⁹ and Minot.¹⁰ For example, recent sponsors of Fargo-Moorhead

7. *Capital Pride*, DAKOTA OUTRIGHT, <https://dakotaoutright.org/capital-pride/> (last visited Mar. 20, 2023).

8. *About FM Pride*, FARGO-MOORHEAD PRIDE, <https://fmpride.com/> (last visited Mar. 20, 2023) (showing a countdown until Fargo-Moorhead's pride event).

9. *About Us*, GRAND FORKS PRIDE, <https://grandforkspride.wixsite.com/grandforkspride/about> (last visited Mar. 20, 2023).

10. *See* KX News, *Small Town, Big Pride: Magic City Equality Hosting Pride Festival*, YOUTUBE (Jul. 8, 2022), <https://www.youtube.com/watch?v=sdpDyWXg-dA>.

Pride have included law firms,¹¹ businesses,¹² colleges and universities,¹³ churches,¹⁴ and many others.¹⁵ During Pride Month last year, THE DICKINSON PRESS published an article exploring the history and current status of LGBTQ+ equality in North Dakota.¹⁶

As another example, Gjesdahl Law in Fargo provides substantial commentary on its website about the current legal and social climate in North Dakota for members of the LGBTQ+ community, particularly regarding families.¹⁷ While this guidance focuses on the rights of LGBTQ+ clients, the Gjesdahl Law website also signals that this firm will be welcoming to lawyers who are members of the LGBTQ+ legal community.¹⁸ And of course, LGBTQ+ legal professionals may be interested in the legal climate for queer and transgender families in North Dakota, as they, their partners, and their children will be living, working, and going to school in communities throughout our state, as well. For example, the Gjesdahl Law website offers the following information:

Get LGBTQ Legal Help in Fargo, North Dakota

Although North Dakota has become more friendly to the LGBTQ community, our LGBTQ friends still face a number of unique legal challenges navigating outdated laws and discriminatory practices. Gjesdahl Law can aid in LGBTQ marriage, divorce, child custody, adoption and more. For LGBTQ legal services in the greater Fargo area, get in touch today.

11. *Pride Guide*, FARGO-MOORHEAD PRIDE (2021), <https://www.yumpu.com/en/embed/view/o08yVJdenb19F64E> (Vogel Law Firm, Gjesdahl Law, Alisha Ankers Attorney at Law, Cheryl Bergian Law Office, Diamond Law Firm).

12. *Id.* (Cargill, Wells Fargo Bank, Blue Cross Blue Shield North Dakota, Eide Bailly, Rhombus Guys, Target, Sanford Health, BNP Paribas Bank of the West, Dental Care Fargo, Bushel Inc., Lunde Auto Center, Dawson Insurance, Fargo Brewing Company, Swanston Equipment, Animal Health Clinic, Matt's Automotive Service Center, Moorhead Ace Hardware, The Village Family Service Center).

13. *Id.* (NDSU, North Dakota State College of Science, Minnesota State University Moorhead, Concordia College, Minnesota State Community and Technical College).

14. *Id.* (St. Mark's Lutheran Church, Saint Stephen's Episcopal Church, United Church of Christ).

15. *Id.*

16. *Pride Month: Assessing Where North Dakota Stands on LGBTQ Equality*, DICKINSON PRESS (June 22, 2022), <https://www.thedickinsonpress.com/community/pride-month-assessing-where-north-dakota-stands-on-lgbtq-equality>.

17. *Get LGBTQ Legal Help in Fargo, North Dakota*, GJESDAHL LAW, <https://gjesdahllaw.com/north-dakota-practice-areas/nd-lgbtq/> (last visited Mar. 20, 2023).

18. *See We're Committed to Helping All Families in the Fargo and Moorhead Area*, GJESDAHL LAW, <https://gjesdahllaw.com/careers/> (last visited Mar. 20, 2023) ("Our firm has an inclusive outlook on families and happily welcomes all clients regardless of individual orientations and/or preferences.").

We Love All Families

At Gjesdahl Law, we care for and celebrate families whenever we can, whether that's defining "family" as unlimited by considerations of sexual orientation or gender identity, or giving out cupcakes the day same-sex marriage was legalized in Minnesota.

LGBTQ FAMILY LAW IN NORTH DAKOTA

In recent decades, North Dakota has become more friendly to its lesbian, gay, bisexual, and transgendered residents. In 2018, North Dakota Human Rights Coalition and Dakota Outright held the first LGBTQ+ Summit in Mandan, ND to provide opportunities for networking, support, and strategizing for educational opportunities in North Dakota. However, LGBTQ individuals still face a number of unique legal challenges navigating outdated laws and court practices relative to marriage, divorce, child custody, and adoption.

LGBTQ & Same-Sex Couple Divorce

Thanks to the landmark civil rights case *Obergefell v. Hodges* marriage and divorce between same-sex couples is handled by the courts identically to the process that governs opposite sex marriages.

North Dakota is a "no fault" state, which makes divorce law significantly clearer. No longer do you have to convince a judge that your spouse was unfaithful, abusive, or an alcoholic. You just need to share your irreconcilable differences and reasons why you shouldn't be married any longer.

Divorce is no longer about whether or not you can get a divorce, but about property division and child custody. Learn more about divorce in North Dakota.

LGBTQ Property Division

North Dakota is an equitable distribution, but interpretation of North Dakota's statute on property division isn't very helpful. The North Dakota Supreme Court has stated that it will divide property in a way that it sees as "just and proper." This leaves much of the property determination up to the judge. While this isn't a unique issue to LGBTQ divorces, it does require an experienced divorce lawyer to navigate this system.

LGBTQ Child Custody in Divorce

Since gay marriage is recognized in North Dakota, a child adopted or

conceived through sperm donation by a married LGBTQ couple is in the custody of both partners. Therefore, if the couple divorces, both parties are legally recognized as parents, and custody will be determined by the courts. The goal of the parents, attorneys, and courts is to create an individualized parenting plan that serves the best interests of the child or children. Learn more about child custody in North Dakota.

Adoption for LGBTQ Individuals & Same-Sex Couples in North Dakota

Gay adoption is legal in North Dakota. Single or married adults may petition for adoption regardless of their gender and sexual orientation. Some laws in North Dakota relating to child-placing agencies can result in discriminatory practices, that's why it is important to seek the help of an experienced law firm that supports LGBTQ rights. Read our blog post on Same-sex adoption to learn more.

Common Questions about LGBTQ Family Law Issues in North Dakota

- How are same-sex parents listed on a birth certificate?
 - Birth certificates in North Dakota now include two “parent” lines instead of a “mother” line and a “father” line.
- How is custody determined for non-married LGBTQ couples?
 - If an unmarried LGBTQ individual has a child or adopts a child, their partner, if they are unmarried, has no legal custody of the child. They must go through the step-parent adoption process in order to have legal custody.¹⁹

The firm's website also contains additional webpages pertaining to LGBTQ+ issues, such as “How Transgender People can Legally Change Their Name in North Dakota,”²⁰ “Paths to Parenthood for LGBTQ Couples,”²¹

19. GJESDAHL LAW, <https://gjesdahllaw.com/north-dakota-practice-areas/nd-lgbtq/> (last visited Mar. 20, 2023).

20. Michael L. Gjesdahl, *How Transgender People can Legally Change Their Name in North Dakota*, GJESDAHL LAW (Jul. 9, 2022), <https://gjesdahllaw.com/blog/how-transgender-people-can-legally-change-their-name-in-north-dakota/>.

21. Kari A. Losee, *Paths to Parenthood for LGBTQ Couples*, GJESDAHL LAW (June 18, 2022), <https://gjesdahllaw.com/blog/paths-to-parenthood-for-lgbtq-couples/>.

“Alternatives to Surrogacy for Same-Sex Couples,”²² and “3 Things Same-Sex Couples Need to Know about Adopting a Child in North Dakota.”²³

As an additional example, the law firm of Fredrikson & Byron, a Minneapolis-based firm which has offices in Bismarck and Fargo, has achieved the highest recognition from the Human Rights Campaign Foundation for five consecutive years as being one of the best places to work for members of the LGBTQ+ community.²⁴ The firm has an LGBTQ+ Employee Resources Group, co-chaired by shareholder Lousene Hoppe.²⁵ This law firm also provides numerous examples of steps other law firms could take to advance diversity and inclusion on their website:

Statement of Values

Diversity and inclusion are core values of Fredrikson. To best serve our clients, we provide innovative solutions to legal needs by cultivating a diverse workforce.

Our Commitment to Diversity & Inclusion

We recognize that a statement alone will not help us achieve a more diverse workforce. Intentional steps and actions directed at hiring and retaining lawyers of diverse backgrounds is imperative.

Fredrikson’s diversity and inclusion initiatives are led by a committee composed of board members, division representatives, associates, and professionals from our business development, recruiting and diversity teams. The committee is responsible for creating and promoting opportunities for education and dialogue throughout the firm, while also supporting the firm’s efforts to retain more effectively attorneys and staff of diverse backgrounds.

Feedback from our current attorneys and staff of diverse backgrounds, as well as from those who have left the firm, is an important component in helping us to learn more about their overall

22. Michael L. Gjesdahl, *Alternatives to Surrogacy for Same-Sex Couples*, GJESDAHL LAW (Dec. 12, 2022), <https://gjesdahllaw.com/blog/alternatives-surrogacy-same-sex-couples/>.

23. Kari A. Losee, *3 Things Same-Sex Couples Need to Know about Adopting a Child in North Dakota*, Gjesdahl Law (June 1, 2022), <https://gjesdahllaw.com/blog/blogsame-sex-adoption-north-dakota/>.

24. *Fredrikson & Byron Achieves Perfect Score on 2022 Corporate Equality Index*, FREDRIKSON & BYRON (Jan. 27, 2022), <https://www.fredlaw.com/news-fredrikson-byron-achieves-perfect-score-on-2022-corporate-equality-index>.

25. *Id.*; see also Lousene M. Hoppe, FREDRIKSON & BYRON P.A., <https://www.fredlaw.com/professionals-lousene-m-hoppe> (last visited Mar. 20, 2023). A litigator and criminal defense attorney, Ms. Hoppe earned a J.D. from the University of Michigan Law School, an M.A. from Luther Seminary, and a B.A. from St. Olaf College. She is currently serving as President and member of the Board of Directors of the National LGBT Bar Association, which recognized her in 2011 as one of the “Best LGBT Attorneys Under 40.” She has also served as Co-Chair of the Minnesota Lavender Bar Association from 2013-2015, as well as Chair of the LGBT Committee of the ABA’s Criminal Justice Section since 2014.

experiences at the firm, identify what obstacles to success they have encountered, and uncover opportunities for improvement. This feedback is extremely important to creating an atmosphere in which all Fredrikson employees feel they can succeed.

Pursuit of diversity and inclusion as core values enables our firm to be a home where professionals and staff who reflect the diversity of our community can achieve success and career fulfillment—individual by individual—which will enrich the professional and personal experience of everyone at Fredrikson.

We acknowledge both the moral and business imperatives for promoting diversity and inclusion within our firm and community. Our clients inspire us to create diverse teams of individuals in order to provide innovative solutions to their legal needs.

Diversity & Inclusion Initiatives

We aspire to be a leader in both our profession and our community in reflecting diversity and inclusion as core values. We are proud to highlight a few of the firm’s diversity and inclusion initiatives:

- In 2022, the firm launched “FredLink,” an internal opt-in mentorship program for attorneys of color and LGBTQ+ attorneys. Participants are paired with leaders throughout the firm for a year-long series of intentional discussions relating to internal and external professional and client development.
- Effective January 2021, attorneys, paralegals and other timekeepers can receive credit toward their billable hour goals for time spent furthering inclusion and diversity at the firm and in the community.
- In 2020 we launched “FredFlix,” a series of short, thought-provoking videos that touch on a wide variety of topics related to inclusion and diversity. After watching the videos, employees are invited to join facilitated conversation that promote respectful small-group dialogue between colleagues.
- We have a strong representation of women and attorneys of diverse backgrounds chairing the firm’s practice areas, and many are leaders and/or members of the firm’s committees.
- Fredrikson proactively encouraged the formation of a Glass Ceiling Task Force, whose recommendations not only assist the firm with the retention of women, but also helps women to thrive in our culture.

- Fredrikson has a record of tackling complex concerns and conversations relating to the retention of our historically underrepresented attorneys. The firm proactively encouraged the formation of: the Glass Ceiling Task Force to assist the firm with the retention of women; Attorneys of Color Task Force to develop recommendations to further support our attorneys of color; and a Pressure-Testing Task Force to systematically review each stage of an attorney's progression at the firm and to identify and interrupt areas of potential bias. Recommendations from all task forces have been incorporated in firm strategic plans, policies, and procedures.
- Fredrikson was proud to host a Twin Cities event designed to gather all women lawyers of color, a program which continues to this day. The program provides a forum for a discussion about how women of color in the Twin Cities have successfully navigated their legal careers with their sponsors and mentors. Attendees participate in dynamic discussion circles led by distinguished women of color leaders in the legal community.
- The firm's hiring efforts include activities designed to increase the diversity of both entry level and lateral level attorneys, including participation in minority job fairs, targeted outreach to associations of minority and other law students and lawyers, and expanded recruiting to include schools with significant diversity in the classes.
- Fredrikson attorney John Stout is a co-founder of the Metropolitan Economic Development Association (MEDA), a non-profit organization that aids businesses that are owned and managed by racial and ethnic minority residents of Minnesota. He is also a co-founder of the Milestone Growth Fund. Milestone Growth Fund is the only Minnesota venture capital fund focused on providing equity-type financing to minority-owned companies.
- Fredrikson is a founding member of Twin Cities Diversity in Practice, a collaborative consortium of local law firms and other organizations dedicated to advancing diversity in the Minneapolis-St. Paul, Minnesota legal community.
- The firm is also an active member of the Leadership Council on Legal Diversity (LCLD), a national organization of more than 285 corporate chief legal officers

and law firm managing partners who are personally committed to creating a truly diverse legal profession.

- The firm annually sponsors many community events and galas that promote diversity in the Twin Cities and we also support individual attorney's involvement in diverse bar associations such as the Minnesota Association of Black Lawyers, the Lavender Bar Association and the Minnesota American Indian Bar Association, to name a few.

The firm has taken several steps to break down barriers and help confront unconscious bias:

- In 2020 Fredrikson completed an "inclusion assessment" to examine our firm's culture of inclusion, identify areas of improvement, and develop resources, initiatives, and tasks to further our development and increase our inclusion across all levels of the firm. The assessment included a survey sent to everyone at the firm and we received remarkable participation. The firm is using the results of the assessment to inform strategic priorities and improve our systems and processes.
- In 2020, we partnered with more than 125 law firms to establish the Law Firm Antiracism Alliance, aiming to leverage the resources of the private bar to amplify the voices of communities and individuals oppressed by racism, to better use the law as a vehicle for change that benefits communities of color and to promote racial equity in the law and in government institutions.
- Our successful diversity and inclusion training series has included programs on topics such as: Working Inclusively in the Hybrid Environment, Identifying and Interrupting Bias; The Many Faces of Islam; The Many Faces of Our LGBT Community; Working Within a Multi-Cultural Environment; and Grey Area Thinking: Helping Legal Professionals Understand "Trans" Persons. We have also hosted programs on topics such as micro-inequities, and generational differences in the workplace.
- In 2005, the Fredrikson & Byron Foundation established the Fredrikson & Byron Scholarship Fund at the University of Minnesota Law School. The scholarship is designed to promote diversity at the law school consistent with the University's diversity initiatives. The law school

scholarship committee selects the recipients of the scholarship. Once the endowment is fully funded, the scholarship assists in covering tuition each year for the selected student.

The firm provides support to our attorneys and staff through a variety of programs including:

- Skills and Practice Development
- Supervisor, Host, and Mentoring Programs
- Writing Skills Support and Development for Summer Associates and New Associates
- Opportunities for Leadership Roles in the Firm and the Community
- Diverse Attorneys Resource Group
- LGBTQ+ Resource Group
- Working Moms' Resource Group
- Counsel for Women, an initiative led by women attorneys, focusing on women business owners and executives. The Counsel for Women sponsors a variety of women-focused programs in the business community and is a founding partner of the Women's Business Development Center (WBDC) Minnesota, a not-for-profit organization established to work with women to launch and strengthen businesses in Minnesota.²⁶

Like Fredrikson & Byron, other law firms in North Dakota could consider completing the Corporate Equality Index survey to demonstrate their commitment to their employees who are members of the LGBTQ+ community. In 2022, the Human Rights Campaign Foundation revamped the criteria for its Corporate Equality Index, which provides a roadmap for law firms and other businesses striving to create more inclusive environments for their LGBTQ+ employees:

Launched in 2002, the HRC Foundation's Corporate Equality Index has become a roadmap and benchmarking tool for U.S. businesses in the evolving field of lesbian, gay, bisexual, transgender and queer equality in the workplace. The HRC Foundation is committed to keeping the criteria for the CEI rigorous, fair and transparent by identifying emerging best practices that improve the experiences of LGBTQ employees of participating businesses. Equally important,

26. *Diversity, Equity, and Inclusion*, FREDRIKSON & BYRON P.A., <https://www.fredlaw.com/commitment-diversity-equity-inclusion> (last visited Mar. 12, 2023).

we are committed to providing the resources and consultation that enable each business to attain a 100 percent rating.

Rating Criteria for the 2023 CEI [Corporate Equality Index]:

1. Workforce Protections (5 points possible)

- Policy includes sexual orientation and gender identity/gender identity or expression for all operations (5)

2. Inclusive Benefits (50 points possible)

To secure full credit for benefits criteria, each benefit must be available to all benefits-eligible U.S. employees. In areas where more than one health insurance plan is available, at least one inclusive plan must be available.

- Equivalency in same- and different-sex spousal medical and soft benefits (No points awarded)
- Equivalency in same- and different-sex domestic partner medical and soft benefits (10)
- Equivalency in spousal and domestic partner family formation benefits regardless of sex. (10)
- Equal health coverage for transgender individuals without exclusion for medically necessary care (25)
- LGBTQ+ Benefits Guide (5)

3. Supporting an Inclusive Culture (25 points possible)

- a. Four LGBTQ+ Internal Training and Accountability Efforts (5)
 - Businesses must demonstrate a firm-wide, sustained and accountable commitment to diversity and cultural competency, including at least four of the following elements:
 - New hire training clearly states that the nondiscrimination policy includes gender identity and sexual orientation and provides definitions or scenarios illustrating the policy for each
 - Supervisors undergo training that includes gender identity and sexual orientation as discrete topics (may be part of a broader training), and provides definitions or scenarios illustrating the policy for each
 - Integration of gender identity and sexual orientation in professional development, skills-based or other leadership

training that includes elements of diversity and/or cultural competency

- Integration of intersectionality in professional development, skills-based, or other training (required)
 - Senior management/executive performance measures include LGBTQ diversity metrics
- b. One LGBTQ+ Data Collection Effort (5)
- Anonymous employee engagement or climate surveys conducted on an annual or biennial basis allow employees the option to identify as LGBTQ+
 - Data collection forms that include employee race, ethnicity, gender, military and disability status — typically recorded as part of employee records — include optional questions on sexual orientation and gender identity.
 - Board (or other governing body) member demographic data collection include the option for individuals to report their sexual orientation and gender identity or self-identity as LGBTQ+
- c. Transgender Inclusion Best Practices (5)
- Gender transition guidelines with supportive restroom, dress code and documentation guidance
 - Implementation of the at least one (1) of the following policies or practices
 - Trans-inclusive restroom/facilities policy
 - Gender-neutral dress code
 - Policies/procedures that allow for optional sharing of gender pronouns
- d. Employee Group –OR– Diversity Council (10)

4. Corporate Social Responsibility (20 points possible)

- a. Five Distinct Efforts of Outreach or Engagement to Broader LGBTQ+ Community (15)
Businesses must demonstrate ongoing LGBTQ+ specific engagement that extends across the firm, including at least five of the following:
- LGBTQ employee recruitment efforts with demonstrated reach of LGBTQ+ applicants (required documentation may

include a short summary of the event or an estimation of the number of candidates reached)

- Supplier diversity program with demonstrated effort to include certified LGBTQ+ suppliers
- Marketing or advertising to LGBTQ consumers (e.g.: advertising with LGBTQ+ content, advertising in LGBTQ media or sponsoring LGBTQ organizations and events)
- Philanthropic support of at least one LGBTQ+ organization or event (e.g.: financial, in kind or pro bono support)
- Demonstrated public support for LGBTQ+ equality under the law through local, state or federal legislation or initiatives

b. LGBTQ+ Corporate Social Responsibility

Contractor/supplier non-discrimination standards AND Philanthropic Giving Guidelines (5)²⁷

Maintaining an LGBTQ+ friendly environment may assist law firms with outreach to potential clients. For example, North Dakota State University provides a listing of LGBTQ+ friendly businesses and resources, including law firms.²⁸

Although North Dakota does not yet have a state or local LGBTQ+ bar association or affiliate, the North Dakota legal community could consider joining numerous other states in establishing such an organization.²⁹ For example, the Minnesota Lavender Bar Association (“MLBA”³⁰)—which includes LGBT and allied lawyers, law students, and other legal professionals—hosts an annual conference addressing LGBTQ+ legal issues.³¹ Lawyers in North Dakota could also join the National LGBTQ+ Bar³² and attend its Annual Lavender Law Conference and Career Fair.³³

27. *2023 Corporate Equity Index Criteria*, HUM. RTS. CAMPAIGN (Jan. 27, 2022), <https://www.hrc.org/resources/corporate-equality-index-criteria>. For the complete toolkit, see: *2023 Corporate Equality Index Criteria Evolution: Toolkit and FAQ*, HUM. RTS. CAMPAIGN, <https://hrc-prod-requests.s3-us-west-2.amazonaws.com/2023-CEI-Criteria-Toolkit-FINAL.pdf> (last visited Mar. 20, 2023).

28. *FM Area LGBTQ Resources*, N.D. STATE UNIV., https://www.ndsu.edu/fileadmin/lgbtq/LGBTQ_Resource.pdf (last visited Mar. 20, 2023).

29. See *LGBTQ+ Bar’s State & Local Affiliate Organizations*, THE LGBTQ+ BAR, <https://lgbtqbar.org/programs/bar-affiliates/> (last visited Mar. 20, 2023).

30. MINN. LAVENDER BAR ASS’N, <https://mnlavbar.org/> (last visited Mar. 20, 2023).

31. See *22nd Annual MLBA Conference*, MINN. LAVENDER BAR ASS’N, <https://mnlavbar.org/22nd-annual-mlba-conference/#!event-register/2023/2/11/22nd-annual-mlba-conference> (last visited Mar. 20, 2023).

32. See THE LGBTQ+ BAR, <https://lgbtqbar.org/> (last visited Mar. 10, 2023).

33. See *Lavender Law Conference & Career Fair*, THE LGBTQ+ BAR, <https://lgbtqbar.org/annual/> (last visited Mar. 20, 2023).

Furthermore, LGBTQ+ issues could continue to be incorporated into existing programming for the legal community in North Dakota. The SBAND Women Lawyers Section’s co-sponsorship of the CLE program on Eliminating Bias against LGBTQ+ Legal Professionals is but one example. As noted in *The Gavel* article about the CLE program on Eliminating Bias Against LGBTQ+ Legal Professionals:

[Last] spring, the Randy H. Lee American Inn of Court in Grand Forks held a program addressing transgender individuals in the legal system. *The Gavel* included an article discussing the evolving use of personal pronouns. Bryan Garner—author of five editions of *Black’s Law Dictionary* and a book with Justice Antonin Scalia—also highlighted changing norms regarding pronouns.³⁴

As another example, the National Consortium on Racial and Ethnic Fairness in the Courts (“NCREFC”) held its 34th Annual Meeting for the first time in North Dakota on May 1-4, 2022.³⁵ The program included a session entitled “What We Know about the Intersections between Sexual Orientation / Gender Identity and Race / Ethnicity in the Justice System” by Todd Brower, Judicial Education Director for the Williams Institute and President of the National Association of State Judicial Educators.³⁶ Kimberley Taylor-Riley, Diversity, Equity, and Inclusion Program Manager with the Oklahoma Gas and Electric Company, served as moderator of this session. North Dakota District Judge Donovan Foughty, current President of the NCREFC,³⁷ helped bring this outstanding national conference to North Dakota, along with Ms. Lee Ann Barnhardt, Education Director with the North Dakota Supreme Court, and North Dakota Supreme Court Justice Daniel Crothers, Chair of the Judicial Branch Education Commission, which jointly hosted the event.³⁸ Dean Michael McGinniss, also a member of the Judicial Branch Education Commission, supported the UND School of Law’s sponsorship of 18 law students to attend the conference.³⁹ Chief Justice Jon Jensen of the North Dakota Supreme Court provided opening remarks welcoming everyone to the

34. Ernst, *supra* note 3, at 20-21.

35. 2022 Annual Conference, NAT’L CONSORTIUM ON RACIAL AND ETHNIC FAIRNESS IN THE COURTS, <https://www.national-consortium.org/conference/2022-annual-conference> (last visited Mar. 20, 2023).

36. *See Conference Agenda*, NAT’L CONSORTIUM ON RACIAL AND ETHNIC FAIRNESS IN THE COURTS, https://www.national-consortium.org/_data/assets/pdf_file/0022/73642/2022-Conference-Agenda.pdf (last visited Mar. 20, 2023).

37. *See Save the Date* from Donovan Foughty (Sep. 9, 2022), https://www.national-consortium.org/_data/assets/pdf_file/0024/86055/NCREFC-2023-Annual-Conference-Save-the-Date-and-History.pdf.

38. *Judicial Education Commission Meeting Minutes*, N.D. COURTS (Feb. 17, 2022), <https://www.ndcourts.gov/supreme-court/committees/judicial-education-commission/2/17/2022>.

39. *See id.*

annual meeting.⁴⁰ Similarly, the legal community in North Dakota could incorporate sessions addressing LGBTQ+ issues into other programs, such as section seminars and CLE programs, the SBAND Annual Meeting, and other venues.

Law firms and legal professionals could also sponsor, attend, distribute promotional materials about their legal services, and give presentations about legal issues affecting LGBTQ+ rights at events geared toward our LGBTQ+ neighbors throughout the state, such as the annual North Dakota LGBTQ+ Summit. The first North Dakota LGBTQ+ Summit on October 5-7, 2018, entitled “United Across North Dakota,” entailed a collaboration between Dakota Outright, the North Dakota Human Rights Coalition, Red River Rainbow Seniors, the Pride Collective, the Equality Federation, and Rural Pride.⁴¹ I attended part of the virtual 4th Annual Summit on Zoom in January 2022,⁴² as well as the entire in-person 5th Annual North Dakota LGBTQ+ Summit in Mandan on October 14-16, 2022,⁴³ along with two students who were taking my Gender and the Law seminar that semester.⁴⁴ The 4th Annual Summit provided a session on LGBTQ+ Employee Rights, which included Ms. Erica Thunder, a UND School of Law alumna who was then serving as Commissioner of the North Dakota Department of Labor and Human Rights, appointed by Governor Doug Burgum in 2019.⁴⁵ Sponsors of the 5th Annual Summit included Sanford Health, Essentia Health, AARP North Dakota, Bismarck-Burleigh Public Health, and High Plains Fair Housing Center, among others.⁴⁶

The 5th Annual LGBTQ+ Summit provided sessions addressing democracy, voting, the importance of civic participation, effective and productive advocacy, understanding the legislative branch, access to healthcare, the impact of recent U.S. Supreme Court decisions on constitutional law affecting LGBTQ+ rights, suicide prevention and mental health for LGBTQ+ youth, issues particularly relevant to

40. *Conference Agenda*, *supra* note 36.

41. *N.D. LGBTQ Summit: United Across N.D.*, N.D. HUM. RTS. COAL. (Sept. 7, 2018) <https://www.ndhrc.org/2018/09/07/north-dakota-lgbtq-summit-united-across-north-dakota/>.

42. *Agenda*, N.D. LGBTQ+ VIRTUAL SUMMIT, <https://www.ndlgbtqsummit.com/archive-jan-2022> (last visited Mar. 20, 2023).

43. *Schedule of the October 2022 N.D. LGBTQ+ Summit*, N.D. LGBTQ+ SUMMIT, <https://www.ndlgbtqsummit.com/schedule> (last visited March 12, 2023).

44. *See UND Law Students Raymond Johnson, Jackson Elmquist, & Edi Planincic Gave a Presentation During the 2022 N.D. LGBTQ+ Summit*, UNIV. OF N.D. SCH. OF L. (Oct. 28, 2022), <https://blogs.und.edu/ndlaw/2022/10/und-law-students-raymond-johnson-jackson-elmquist-and-edi-planincic-gave-a-presentation-during-the-2022-north-dakota-lgbtq-summit/>.

45. *Burgum Appoints Erica Thunder to Lead North Dakota Department of Labor & Human Rights*, STATE OF N.D. (May 9, 2019, 1:45 PM), <https://www.nd.gov/news/burgum-appoints-erica-thunder-lead-north-dakota-department-labor-and-human-rights>.

46. *5th Annual ND LGBTQ+ Summit Sponsors*, N.D. LGBTQ+ SUMMIT, <https://www.ndlgbtqsummit.com/sponsors> (last visited Mar. 20, 2023).

Black/Indigenous/People of Color (“BIPOC”) communities, and many other issues.⁴⁷ Additionally, UND School of Law students Raymond Johnson, Jackson Elmquist, and Edi Planincic gave a presentation about a template for an *LGBTQ+ Student Self-Advocacy Toolkit* they developed for students experiencing discriminatory or bullying behavior in high school.⁴⁸ They drafted the toolkit in Professor Jennifer Cook’s Social Justice Lawyering course during the spring 2022 semester,⁴⁹ and she attended the students’ presentation during the summit, as well. Numerous LGBTQ+ organizations in North Dakota were involved in planning and hosting the weekend-long event,⁵⁰ such as Red River Rainbow Seniors,⁵¹ Magic City Equality,⁵² Fargo-Moorhead Pride Collective and Community Center,⁵³ UND Queer & Trans

47. *Schedule*, N.D. LGBTQ+ SUMMIT, <https://www.ndlgbtqsummit.com/schedule> (last visited Mar. 11, 2023).

48. *A Self-Advocacy Guide for LGBTQ+ Students*, N.D. HUM. RTS. COAL., https://www.canva.com/design/DAE8qKBiVfU/OMJkDZecrCpzWKYRsrk2Gg/view?utm_content=DAE8qKBiVfU&utm_campaign=designshare&utm_medium=link2&utm_source=sharebutton (last visited Mar. 20, 2023).

49. *Id.*; *see also BIPOC Toolkit: Know Your Rights*, N.D. HUM. RTS. COAL., https://www.canva.com/design/DAE9Tsb_HAw/8LVgXk08m5Wvd7pdauzDWQ/view?utm_content=DAE9Tsb_HAw&utm_campaign=designshare&utm_medium=link&utm_source=homepage_design_menu (last visited Mar. 20, 2023); *Know Your First Amendment Rights: Resource Guide for North Dakota Teachers*, N.D. HUM. RTS. COAL., https://www.canva.com/design/DAE8lAXnT1E/UDPqhtk1yiGKBMHbNPVsNg/view?utm_content=DAE8lAXnT1E&utm_campaign=designshare&utm_medium=link2&utm_source=sharebutton (last visited Mar. 20, 2023).

50. *Pride Guide: Official Guide to FM Pride*, FARGO-MOORHEAD PRIDE (Aug. 7, 2022) https://issuu.com/fargomoorheadpride/docs/prideguide2022?utm_medium=referral&utm_source=fmpride.com (“Major stakeholders and planners of the [LGBTQ+ Summit] include Red River Rainbow Seniors, ND Human Rights Coalition, Dakota Outright, Pride Collective and Community Center, Magic City Equality, Rainbow Rendezvous, FM Pride, and ND Two Spirit [Society] and Allies. National partners include National Center for Lesbian Rights, the Trevor Project, AARP, Equality Federation, and PFund.”); *Schedule of the October 2022 N.D. LGBTQ+ Summit*, *supra* note 43 (the schedule also lists North Dakota-based organizations in the session entitled “Conversation with ND LGBTQ+ Organizations”).

51. *Breaking Barriers*, RAINBOW SENIORS, <https://sites.google.com/rainbowseniorsorallhistory.org/breaking-barriers/home> (last visited Mar. 20, 2023); Red River Rainbow Seniors (@RRRainbowSeniors), FACEBOOK, <https://www.facebook.com/RRRainbowSeniors/> (last visited Mar. 20, 2023) (“Red River Rainbow Seniors is an organization dedicated to providing advocacy, education, support & fun for the 50+ LGBTQ community in the Red River Valley.”).

52. MAGIC CITY EQUALITY, <https://www.magiccityequality.com/> (last visited Mar. 20, 2023) (“Magic City Equality educates the general public and the LGBTQ2S+ (lesbian, gay, bisexual, transgender, queer/questioning, Two Spirit) community in northwestern and north-central North Dakota about LGBTQ2S+ culture, current events and community concerns.”); *see also* KX News, *supra* note 10.

53. *About*, FM PRIDE COLLECTIVE AND CMTY. CTR., <https://www.fmpridecollective.org/about> (last visited Mar. 20, 2023) (“The Fargo-Moorhead Pride Collective and Community Center first opened in October of 2000, with the purpose of creating a safe and inclusive space for LGBTQIA2S+ individuals of the area.”).

Alliance,⁵⁴ Dakota OutRight,⁵⁵ Tristate Transgender,⁵⁶ North Dakota Two Spirit Society and Allies,⁵⁷ and Williston Rainbow Rendezvous.⁵⁸

Students at the University of North Dakota School of Law have also initiated other projects throughout the past year to raise awareness of LGBTQ+ issues and to create a welcoming and inclusive environment at the law school, throughout the University of North Dakota, and in the Grand Forks community. For example, in addition to the CLE program described above, the International Human Rights Organization also hosted a table during the Global Friends Coalition's Community Picnic at University Park on September 18, 2022, to raise awareness about human rights, including LGBTQ+ rights, and to encourage attendees to consider going to law school.

Additionally, in the fall of 2022, law student leaders revived the Multicultural Law Students Association ("MLSA"). According to its website:

The goals and intent of MLSA [are] to address cultural, identity, racial, [and] LGBTQIA issues facing law students at the University of North Dakota with the aim of educating and preparing future lawyers that want to dedicate their professional lives to developing a more just society. We seek to create a forum to address the legal barriers facing minority groups and provide information and inspirational resources for work in a variety of legal areas; to help incoming law students transition into law school by providing wisdom and guidance; to provide a network of students during each year of law school to help mitigate the pressures of law school; to enhance the mission of the University of North Dakota by providing students with a forum to discuss diversity issues; and to enhance the law school experience by allowing students a forum to express their ideas, beliefs and opinions.⁵⁹

Since its reactivation as a law student organization, MLSA has undertaken numerous initiatives in the past few months. For example, MLSA

54. *Queer & Trans Alliance*, INVOLVEMENT AT UNIV. OF N.D., <https://involvement.und.edu/organization/qta> (last visited Mar. 20, 2023); see also *Community Involvement*, UNIV. OF N.D., <https://und.edu/student-life/diversity/pride/community.html> (last visited Mar. 20, 2023); UND Queer & Trans Alliance (@UNDQTA), FACEBOOK, <https://www.facebook.com/UNDQTA/> (last visited Mar. 20, 2023).

55. DAKOTA OUTRIGHT, <https://dakotaoutright.org/> (last visited Mar. 20, 2023).

56. TRISTATE TRANSGENDER, <http://tristatetransgender.weebly.com/> (last visited Mar. 20, 2023).

57. North Dakota Two Spirit Society and Allies, FACEBOOK, <https://www.facebook.com/nd2spiritsocietyandallies/> (last visited Mar. 20, 2023).

58. The Rainbow Rendezvous (@williston_rainbowrendezvous), INSTAGRAM, https://www.instagram.com/williston_rainbowrendezvous/?hl=en (last visited Mar. 11, 2023).

59. *Multicultural Law Students Association*, INVOLVEMENT AT UNIV. OF N.D., <https://involvement.und.edu/organization/mlsa> (last visited Mar. 20, 2023).

donated a basket of books to the law student Commencement Committee's "Legal Affair" silent auction fundraiser, including *Becoming Nicole: The Transformation of an American Family* by Amy Ellis Nutt, a book about the legal and other struggles a relatively conservative family encountered as they realized over the years that one of the twin boys in the family identifies as a girl.⁶⁰ MLSA also hosted an educational program by UND Pride Center Director Jeff Maliskey about being an LGBTQ+ ally for interested UND law students, faculty, and staff. The organization sponsored a "Flamingo Flocking Fundraiser" to raise awareness about and support for the Trevor Project (which helps prevent suicide and promote mental health for LGBTQ+ youth) and other MLSA initiatives. The student leaders organized a Spirit Pride (LGBTQ+ Awareness) Day event at the law school and coordinated a poster initiative celebrating prominent two-spirit members of the Native American community. Additionally, MLSA spearheaded a clothing donation project in support of and to raise awareness about the UND Pride Center's new Gender Expression Closet (providing gender-appropriate clothing to students who may feel uncomfortable shopping in the gender-appropriate areas of clothing stores).

Since more UND law students are becoming involved in advocacy on behalf of the LGBTQ+ community, they may be interested in joining firms that have a positive track record of respecting LGBTQ+ rights and eliminating bias against LGBTQ+ legal professionals within their firms and within the legal profession as a whole.

To help eliminate bias against LGBTQ+ members of the legal community, lawyers, judges, and others working within the legal system can support the efforts of professional organizations in their cities and towns to provide relevant educational programs. For instance, lawyers actively participate in the Greater Grand Forks Women's Leadership Cooperative, which recently presented a forum entitled "Voices of Allies: Communicating within the LGBTQIA+ Community."⁶¹ The description indicates:

You know you are an LGBTQIA+ ally. But in a society of quickly changing language and ideology, it can sometimes be intimidating to voice your support in an inclusive and respectful manner. Join GGFWLC as we welcome a panel of local LGBTQIA+ advocacy

60. AMY ELLIS NUTT, *BECOMING NICOLE* (2015). The other books in their donation included: BRYAN STEVENSON, *JUST MERCY* (2015); MICHELLE ALEXANDER, *THE NEW JIM CROW* (2020); DENISE LAJIMODIERE, *STRINGING ROSARIES* (2019); SARAH VOGEL, *THE FARMER'S LAWYER* (2021); and JANE SHERRON DE HART, *RUTH BADER GINSBURG: A LIFE* (2018).

61. Pamela Knudson, *Grand Forks Women's Leadership Group to Host LGBTQ Panel Discussion*, GRAND FORKS HERALD (Feb. 7, 2023), <https://www.grandforksherald.com/community/grand-forks-womens-leadership-group-to-host-lgbtq-panel-discussion?auth0Authentication=true>.

leaders for a discussion of activism techniques and resources in Greater Grand Forks.⁶²

This program featured Officer Brian Samson, who serves as the Cultural Diversity Officer with the Grand Forks Police Department (“GFPD”) and “train[s] officers on LGBTQ+ topics for law enforcement/ overcoming biases, and cultural diversity;”⁶³ UND faculty member Merie Kirby, who “began working to found a Greater Grand Forks chapter of PFLAG, a nationwide organization dedicated to support for, education about, and advocacy for LGBTQ+ people and their families”⁶⁴ in 2021, which “became official in September 2022 and holds monthly peer support meetings;”⁶⁵ Brian Nunn, who has worked in Corrections for the State of North Dakota and “founded J and H Nunn Sports Foundation in 2015 to help youth in our community play sports;”⁶⁶ and UND Pride Center Director Jeff Maliskey, who “brings over a decade of student affairs experience working with student affinity-based resources and support centers at Ferris State University, Grand Valley State University, Aquinas College, and the University of North Dakota.”⁶⁷ Law firms could sponsor such programs in their communities or bring similar speakers into their law firms to help educate their lawyers and staff professionals.

Finally, as another example of entities attempting to foster a more welcoming community to our LGBTQ+ neighbors (which of course include neighbors who are members of the legal profession), my church—Sharon Lutheran Church in Grand Forks—has spearheaded several recent projects. As one example, members of my church are undergoing an eight-week in-depth examination of the Evangelical Lutheran Church of America’s (“ELCA’s”) Human Sexuality Study⁶⁸ adopted in 2009 after several years of study and discussion. I was fortunate to serve as a delegate from my former church—Holy Cross Lutheran Church in Herndon, VA—to our synod meeting during that timeframe, so I was able to observe and participate in the discussions about the ELCA’s stance toward welcoming our LGBTQ+ neighbors into our church community. As another initiative, the Sharon Lutheran Church book group has read and discussed the fascinating and

62. *Voices of Allies Communicating Within the LGBTQIA+ Community*, GREATER GRAND FORKS WOMEN’S LEADERSHIP COOP., <https://www.ggfwlc.com/past-events.html> (last visited Mar. 20, 2023).

63. *Id.*

64. *Id.*

65. *Id.*

66. *Id.*

67. *Id.*

68. SHARON LUTHERAN CHURCH, https://www.sharonlutheran.org/_files/ugd/abf0b3_06e6274b062442c196f465d4a894f85f.pdf (showing the meeting dates under “Sharon University” on the last page).

insightful book *Becoming Nicole: The Transformation of an American Family* (mentioned above), which I would recommend to anyone interested in learning more about the life of a family struggling with what it means when a member of the family identifies as transgender, including their legal journey.⁶⁹ Sharon Lutheran Church also welcomed a speaker from one of our neighboring ELCA congregations in Grand Forks, Christus Rex, who gave a very powerful sermon about love, compassion, and understanding, in part describing her experience when one of her friends revealed they were transgender. Although the religious aspects of these examples may not be pertinent to legal employers, law firms and other entities could sponsor book groups to learn more about the lives and experiences—including legal issues—of queer and transgender people. These opportunities for dialogue can provide marvelous ways in which people of differing beliefs can engage in productive conversations with each other and encourage understanding, even though members may continue to maintain different approaches to the issues. Engaging discussions about challenging issues—if approached through a spirit of collegiality, intellectual curiosity, and good will—can also help build stronger communities, whether within a religious entity or a legal enterprise.

To conclude, I am providing links to examples of numerous state, regional, and national organizations working on eliminating bias against LGBTQ+ people in the non-exhaustive lists below. I would encourage members of the legal profession in North Dakota to consider taking steps to help eliminate bias against our colleagues who are members of the LGBTQ+ legal community in our state. Not only will doing so benefit the legal profession, but it will also enable our state to grow even stronger in our efforts to ensure individual rights, equality, justice for all within our great state of North Dakota.

North Dakota and Local Organizations

- [Dakota Outright](#)⁷⁰
- [Fargo Moorhead Pride](#)⁷¹
- [Fargo Moorhead Pride Collective and Community Center](#)⁷²

69. SHARON LUTHERAN CHURCH, https://www.sharonlutheran.org/_files/ugd/abf0b3_fa3a193db57a4366a6d73d1eb78d2fb6.pdf (showing the schedule under “Sharon Book Group” on the second to last page).

70. *Local and National LGBTQIA2S+ Organizations*, DAKOTA OUTRIGHT, <https://dakotaoutright.org/lgbtqia2s-organizations/> (last visited April 14, 2023).

71. *About FM Pride*, FARGO-MOORHEAD PRIDE, <https://fmpride.com/> (last visited April 14, 2023).

72. *About*, FM PRIDE COLLECTIVE AND CMTY. CTR., <https://www.fmpridecollective.org/about> (last visited April 14, 2023).

- [Magic City Equality](#)⁷³
- [Multicultural Law Students Association](#)⁷⁴
- [North Dakota Human Rights Coalition](#)⁷⁵
- [North Dakota Two Spirit Society and Allies](#)⁷⁶
- [PFLAG Bismarck](#)⁷⁷
- [PFLAG Grand Forks](#)⁷⁸
- [QSpace](#)⁷⁹
- [Rainbow Rendezvous](#)⁸⁰
- [Red River Rainbow Seniors](#)⁸¹
- [Ruby River Society](#)⁸²
- [Tri-State Transgender](#)⁸³
- [UND Pride Activism](#)⁸⁴
- [UND Pride Center](#)⁸⁵
- [UND Queer and Trans Alliance](#)⁸⁶

Nearby States

- [Transformation Project Advocacy Network – South Dakota](#)⁸⁷
- [Minnesota Lavender Bar Association](#)⁸⁸
- [The Center \(Western Montana's LGBTQ Community Center\)](#)⁸⁹

73. MAGIC CITY EQUALITY, <https://www.magiccityequality.com/> (last visited April 14, 2023).

74. *Multicultural Law Students Association*, INVOLVEMENT AT UNIV. OF N.D., <https://involvement.und.edu/organization/mlsa> (last visited April 14, 2023).

75. N.D. HUM. RTS. COAL., <https://www.ndhrc.org> (last visited April 14, 2023).

76. North Dakota Two Spirit Society and Allies, FACEBOOK, <https://www.facebook.com/nd2spiritsocietyandallies/> (last visited April 14, 2023).

77. PFLAG BISMARCK, <https://pflagbismarck.org/> (last visited April 14, 2023).

78. PFLAG GRAND FORKS, <https://pflag.org/chapter/grand-forks/> (last visited April 14, 2023); *Attend a Meeting*, GRAND FORKS PFLAG, <https://gfpflag.com/> (April 14, 2023).

79. QSPACE, DAKOTA OUTRIGHT, <https://dakotaoutright.org/qspace/> (last visited April 14, 2023).

80. The Rainbow Rendezvous, FACEBOOK, <https://www.facebook.com/willistonrainbowrendezvous> (last visited April 14, 2023).

81. Red River Rainbow Seniors (@RRRainbowSeniors), FACEBOOK, <https://www.facebook.com/RRRainbowSeniors/> (last visited April 14, 2023).

82. Ruby River Society, FACEBOOK, <https://www.facebook.com/rubyriversociety> (last visited April 14, 2023).

83. TRISTATE TRANSGENDER, <http://tristatetransgender.weebly.com/> (last visited April 14, 2023).

84. *Pride Activism*, INVOLVEMENT AT UNIV. OF N.D., <https://involvement.und.edu/organization/pride-activism> (last visited April 14, 2023).

85. *Pride Center*, UNIV. OF N.D., <https://und.edu/student-life/diversity/pride/> (last visited Mar. 20, 2023).

86. *Queer & Trans Alliance*, INVOLVEMENT AT UNIV. OF N.D., <https://involvement.und.edu/organization/qta> (last visited Mar. 20, 2023).

87. THE TRANSFORMATION PROJECT, <https://www.transformationprojectsd.org> (last visited Mar. 20, 2023).

88. MINN. LAVENDER BAR ASS'N, <https://mnlavbar.org> (last visited Mar. 20, 2023).

89. THE CTR., <https://www.gaymontana.org> (last visited Mar. 20, 2023).

National Organizations

- [ABA Commission on Sexual Orientation and Gender Identity](#)⁹⁰
- [GLBTQ Legal Advocates & Defenders \(GLAD\)](#)⁹¹
- [Gay and Lesbian Alliance Against Defamation \(GLAAD\)](#)⁹²
- [Human Rights Campaign \(HRC\)](#)⁹³
- [Immigration Equality](#)⁹⁴
- [OutRight International](#)⁹⁵
- [Lambda Legal Defense & Education Fund](#)⁹⁶
- [Lavender Law Conference and Career Fair](#)⁹⁷
- [National Center for Lesbian Rights](#)⁹⁸
- [National Gay & Lesbian Task Force](#)⁹⁹
- [National LGBTQ+ Bar](#)¹⁰⁰
- [PFLAG](#)¹⁰¹ (which has a relatively new chapter in Grand Forks)¹⁰²
- [Transgender Legal Defense & Education Fund](#)¹⁰³
- [The Trevor Project](#)¹⁰⁴

90. *Commission on Sexual Orientation and Gender Identity*, AM. BAR ASS'N, https://www.americanbar.org/groups/diversity/sexual_orientation/ (last visited Mar. 20, 2023).

91. GLBTQ LEGAL ADVOC. AND DEFS., <https://www.glad.org/post/glads-new-name-frequently-asked-questions/> (last visited Mar. 20, 2023) (GLAD was originally the acronym for Gay and Lesbian Advocates and Defenders).

92. GLAAD, <https://www.glaad.org> (last visited Mar. 20, 2023).

93. HUM. RTS. CAMPAIGN, <https://www.hrc.org> (last visited Mar. 20, 2023).

94. IMMIGR. EQUAL., <https://immigrationequality.org> (last visited Mar. 20, 2023).

95. OUTRIGHT INT'L, <https://www.outrightinternational.org> (last visited Mar. 20, 2023).

96. LAMBDA LEGAL, <https://www.lambdalegal.org> (last visited Mar. 20, 2023).

97. *The Lavender Law Conference & Career Fair*, LGBTQ+ BAR, <https://lgbtqbar.org/annual/> (last visited Mar. 20, 2023).

98. NAT'L CTR. FOR LESBIAN RTS., <https://www.nclrights.org> (last visited Mar. 20, 2023).

99. NAT'L LGBTQ TASK FORCE, <https://www.thetaskforce.org> (last visited Mar. 20, 2023).

100. THE LGBTQ+ BAR, <https://lgbtqbar.org> (last visited Mar. 20, 2023).

101. PFLAG, <https://pflag.org/> (last visited Mar. 20, 2023); *see also Our Story*, PFLAG, <https://pflag.org/our-story/> (last visited Mar. 20, 2023). Until 2014, PFLAG initially stood for Parents and Friends of Lesbians and Gays, then Parents, Families, and Friends of Lesbians and Gays. Since 2014, PFLAG is no longer an acronym, reflecting the organization's inclusion of people throughout the spectrum of sexual orientation and gender identity.

102. PFLAG GRAND FORKS, <https://pflag.org/chapter/grand-forks/> (last visited Mar. 20, 2023).

103. TRANSGENDER LEGAL DEF. & EDUC. FUND, <https://transgenderlegal.org> (last visited Mar. 20, 2023).

104. THE TREVOR PROJECT, <https://www.thetrevorproject.org/get-help/> (last visited Mar. 20, 2023).