

LGBT CIVIL RIGHTS

THE PROBLEM

Lesbian, gay, bisexual, and transgender people continue to face significant legal barriers to equality in the United States. LGBT individuals are more likely to be victims of hate crimes than any other group and hate-crime murders against LGBT individuals reached an all-time high in 2015.¹

While the LGBT movement achieved significant gains under the Obama administration, far too many jurisdictions still allow discrimination in employment, housing, and places of public accommodation; fail to extend domestic partner benefits to same-sex couples; and lack pro-equality policies, including anti-bullying policies, in schools. Bullying affects children in tragic ways, with nearly one in four LGB teenagers and forty percent of transgender individuals attempting suicide.² Progress made at the federal level to combat discrimination and harassment of LGBT students is at risk under the current administration, as the Department of Justice has revoked importance guidance documents that protected transgender students.³

Municipalities are expanding legal protections for LGBT individuals, and there is ample room for continued leadership at the local level.⁴

THE SOLUTION

Local governments possess a wide range of options to protect LGBT rights and further the goals of inclusion and acceptance. Among these options are: (1) adopting equal municipal employment practices, (2) prohibiting discrimination by private sector employers and businesses, (3) providing domestic-partner benefits for same-sex couples, (4) establishing anti-bullying and other inclusionary protocols in schools, and (5) fostering meaningful community engagement on LGBT issues. The authority of municipalities to pass legislation in

these areas often depends on their home rule powers.⁵

POLICY ISSUES

MUNICIPAL EMPLOYMENT PRACTICES: One of the most effective ways that municipalities can protect LGBT rights is by treating their employees equally regardless of sexual orientation or gender identity. By local ordinance, over 200 municipalities, including cities like **Indianapolis, St. Louis, and Memphis**, prohibit discrimination by government offices in hiring, promotion, job assignment, and other employment practices.⁶

Local governments are also enacting provisions extending domestic partner benefits to their workers. Many cities and counties, such as **San Antonio**, extend benefits like health insurance to the significant others of all their employees, regardless of sexual orientation.⁷ Other cities, like **Los Angeles** and **Minneapolis**, have mandated that all private employers contracting with the local government must similarly extend benefits to same-sex couples.⁸

PROHIBITIONS ON DISCRIMINATION IN THE PRIVATE SECTOR: Many local governments require private businesses to treat their employees and customers equally in employment and the provision of housing and public accommodation. Two Hundred and twenty five municipalities and counties in every region of the country have enacted ordinances, prohibiting discrimination on the basis of sexual orientation. These include **Atlanta, Baltimore, Chicago, Fort Worth, New York City, Salt Lake City**, and little **Susquehanna Township, PA**. Nearly all of these also prohibit discrimination on the basis of gender identity. Case law suggests that municipal anti-discrimination ordinances can be extended to cover all non-ministerial employees.⁹

Many municipalities are also tackling discrimination in the workplace itself, and broadening anti-harass-

ment and discrimination laws to cover LGBT individuals. In 2016, **New York City** implemented one of the nation's strongest protections for transgender and non-conforming communities. The bill classifies as discrimination, among other things, dress codes that impose different requirements based on gender or sex and the failure to provide employee health benefits that cover gender-affirming care.¹⁰

YOUTH EDUCATION AND ANTI-BULLYING POLICIES:

In an effort to protect children, school districts and local governments are enacting strict new anti-bullying provisions that specifically address sexual orientation and gender identity. Often, like in **Tehachapi, CA**, these provisions are adopted after the death of a student who was a victim of bullying.¹¹ Many municipalities, including **Charlotte, Dallas, Fort Worth, Johnstown, NY**, and **Oklahoma City**, have forbidden bullying by students or teachers based on sexual orientation or gender identity.¹² In many districts, violation of the policy can lead to expulsion. Some districts have gone a step further and taken effort to foster an affirmative sense of inclusion. **Broward County, FL** schools recognized October as LGBT History Month;¹³ teachers and principals have supported the creation of Gay-Straight Alliance chapters in the high schools of Pittsburgh suburbs;¹⁴ and many school districts are training teachers and educating students about diverse family arrangements and ways to support LGBT students.¹⁵

COMMUNITY ENGAGEMENT: By adopting public policy resolutions, local governments further the goal of inclusion. These resolutions serve to affirm that local governments officially condemn prejudice based on sexual orientation and intend to treat LGBT individuals as full and equal citizens.¹⁶

Some cities, like **Chicago** and **Minneapolis**, have created advisory councils or task forces designed to educate the city council and conduct outreach into the community.¹⁷ Outreach efforts focus on education by providing workshops and presentations to schools, religious institutions, youth agencies, and community groups. Other cities, like **New York City**, task their human rights commissions not only with these duties but also with the power to investigate and punish violations of anti-discrimination law.¹⁸

LANDSCAPE AND RESOURCES

Human Rights Campaign is a national organization that tracks municipal legislation, publishes the comprehensive Municipal Equality Index, and advocates for an end to sexual orientation and gender identity discrimination. **The Transgender Law and Policy Institute** maintains a list of state and local laws on gender identity and provides legal, medical, and social science resources to advocates. **The Sylvia Rivera Law**

Project addresses the particular problems faced by low-income transgender individuals and transgender people of color. **Movement Advancement Project** maintains a map and data on the percentage of workers legally required to be treated equally regardless of sexual orientation or gender identity in the private sector.¹⁹ **Equality Florida** organizes, lobbies, and educates on behalf of the LGBT community in the Sunshine State. **The Center for Popular Democracy** provides legal, strategy, and organizing support to local campaigns on these issues.

NOTES

- 1 Mark Potok, *Anti-Gay Hate Crimes: Doing the Math*, (2010) Lila Shapiro, Record Number of Reported LGBT Homicides So Far in 2015, (2015)
- 2 Genevra Pittman, *Social Environment Linked to Gay Teen Suicide Risk*, Reuters Magazine (2011); American Association of Suicidology, *Suicidal Behavior Among Lesbian, Gay, Bisexual, and Transgender Youth Fact Sheet*; National Center for Transgender Equality, *The Report of the U.S. Transgender Survey*, (2015).
- 3 Sandhya Somashekar, *Trump Administration Rolls Back Protections for Transgender Students*, Washington Post (2017).
- 4 It is important to note that three states, Tennessee, North Carolina, and Arkansas, have anti-discrimination preemption laws that prevent municipalities from creating anti-discrimination ordinances.
- 5 Josh Goodman, *Republican Legislatures Move to Preempt Local Government* (2012).
- 6 Human Rights Campaign, *Cities and Counties with Non-Discrimination Ordinances that Include Gender Identity* (2013).
- 7 City of San Antonio, Human Resources Department, *Civilian Employees Eligibility*,
- 8 Todd A. Solomon and Brett R. Johnson, *Walking Employees Through the Regulatory Maze Surrounding Same-Sex Domestic Partner Benefits* (2012).
- 9 Human Rights Campaign, *Cities and Counties with Non-Discrimination Ordinances that Include Gender Identity*, (2013).
- 10 City of New York, Office of the Mayor, *NYC Commission in Human Rights Announces Strong Protections for City's Transgender and Gender Non-Conforming Communities in Housing, Employment, and Public Spaces*.
- 11 Jorge Barrientos, *Seth's Legacy: Tehachapi teen's Suicide Launches National, Local, anti-Bullying Fight*, (2012).
- 12 Lisa Reyes, *CMS Adopts Anti-Bullying Policy* (2008); GLSEN Blog, *Oklahoma City School Board Adds Sexual Orientation and Gender Identity to Anti-Bullying Policy* (2009).
- 13 LGBTQ Nation, *Broward County Schools First in U.S. to Recognize LGBT History Month* (2012).
- 14 Kathleen Ganster, *Gay-Straight Alliance at Hampton Spreads Awareness, Tolerance*, Pittsburgh Post-Gazette (2013).
- 15 Michael Chandler, *In D.C. Schools, Early Lessons in Gay Tolerance*, Washington Post (2012); Diana Schemo, *Lessons on Homosexuality Move Into the Classroom*, New York Times (2007)
- 16 See Susquehanna Township, Ordinance 11-17 (2011); New York City, Chapter 1: Commission on Human Rights.
- 17 Chicago Committee on Human Relations, *Amendment of Titles 2 and 5* (2002).
- 18 Title 8 of the Administrative Code of the City of New York.
- 19 Movement Advancement Project, *Local Employment Non-Discrimination Ordinances*.

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