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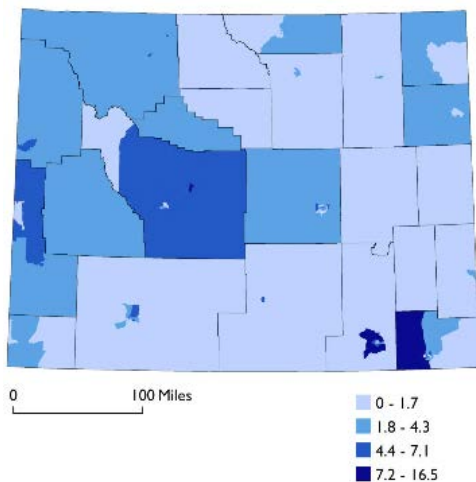
Executive Summary

More than 4% of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 8,900 of these workers live in Wyoming. Wyoming does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.

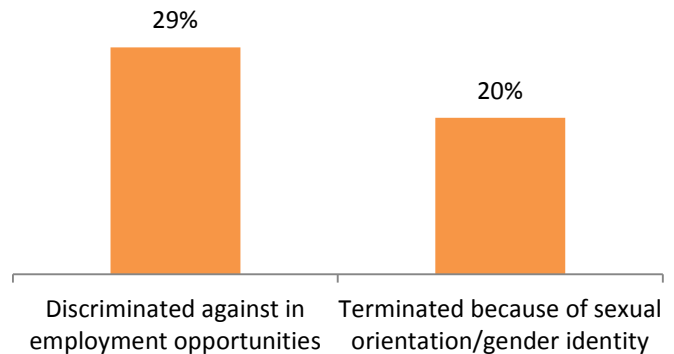
This report summarizes evidence of sexual orientation and gender identity employment discrimination, explains the limited current protections from sexual orientation and gender identity employment discrimination in Wyoming, and estimates the administrative impact of passing a law prohibiting employment discrimination based on these characteristics in the state.

8,900	16%	69%	1%	4
Number of LGBT Workers	Income Disparity between Straight and Gay Male Workers	Public Support for LGBT Workplace Protections	Workforce Covered by Local Non-Discrimination Laws	Estimated New Complaints if LGBT Protections are Added to State Law

Same-Sex Couples per 1,000 Households, by Census Tract (adjusted)



Experiences of Employment Discrimination Reported by LGBT People in Wyoming¹



Key findings of this report include:

- In total there are approximately 13,000 LGBT adults in Wyoming, including 8,900 who are part of Wyoming's workforce.²
- Media reports and lawsuits document incidents of sexual orientation and gender identity discrimination against employees in Wyoming. These include reports from school administrators and a state government employee.
- A recent survey in Wyoming reflects discrimination and negative attitudes toward LGBT people in the workplace. A 2006 survey of 87 LGB people in Wyoming found that of respondents who were "out" about their sexual orientation to their co-workers, 29% reported that they were discriminated against in employment opportunities, and 20% believed that their sexual orientation or gender identity was a factor in the termination of their employment from an existing position.
- National surveys also show that discrimination against LGBT workers is persistent and prevalent. Most recently, a 2013 Pew Research Center survey found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, as recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity.
- Disparities in wages are another way that discrimination has traditionally been measured. Census data show that in Wyoming, the median income of men in same-sex couples is 16% lower than the median income of men in different sex marriages.
- Wyoming is one of eleven states with no local-level ordinances prohibiting sexual orientation and gender identity discrimination in private sector employment. A recent local ordinance passed in Jackson Hole, Wyoming is the first in the state to prohibit sexual orientation and gender identity discrimination in public sector employment.
- None of Wyoming's workforce is covered by a local ordinance that prohibits discrimination in private sector employment. Less than 1% of Wyoming's workforce is covered by Jackson Hole's policy prohibiting sexual orientation and gender identity discrimination in local government employment.³
- Of the large private sector employers in Wyoming, at least four—Halliburton, Rio Tinto Energy America, Lowe's Companies Inc., and Walmart Stores Inc.— prohibit discrimination on the basis of either sexual orientation or gender identity. In addition, the University of Wyoming prohibits employment discrimination based on sexual orientation.
- Public opinion in Wyoming supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 69% of those polled in Wyoming said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.⁴ In addition, other polls have found that 78% of Wyoming

residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.

- Adding sexual orientation and gender identity to the state's current non-discrimination law would result in approximately four additional complaints being filed with the Wyoming Labor Standards Office each year.
- Because the number of discrimination complaints filed with the Wyoming Labor Standards Office varies, on average, by more than four complaints annually, the anticipated new complaints based on sexual orientation and gender identity could likely be absorbed into the existing system with no need for additional staff and negligible costs. A conservatively high estimate suggests that it would cost the Labor Standards Office \$10,800 per year to enforce the complaints, or about 1.1 percent of the 2013 budget.

Evidence of Discrimination

Survey Data and Specific Examples of Sexual Orientation and Gender Identity Discrimination in Wyoming

Research shows the existence of widespread and continuing discrimination against LGBT workers in the U.S. In response to surveys, LGBT workers consistently report having experienced discrimination, and non-LGBT people often report having witnessed discrimination against their LGBT co-workers. For example, a national survey conducted by Pew Research Center in 2013 found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.⁵ Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians had experienced workplace harassment in the last five years, and 12% had lost a job because of their sexual orientation.⁶ As recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity.⁷

Similar statistics have been found in surveys of LGBT individuals in Wyoming. A 2006 survey of 87 LGBT people in Wyoming found that of respondents who were "out" about their sexual orientation to their co-workers, 29% reported that they were discriminated against in employment opportunities and 20% reported moderate to high levels of discrimination in employment benefits.⁸ Additionally, of the surveyed respondents, 20% believed that their sexual orientation or gender identity was a factor in the termination of their employment from an existing position.⁹ Further, of the "out" respondents, 44% reported mixed reactions to their sexual orientation.¹⁰ Men and women in less densely populated areas of Wyoming reported higher levels of discrimination than those in more densely populated towns.¹¹

Employment discrimination against LGBT people has also been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination in employment.¹²

Examples of employment discrimination against LGBT people Wyoming have been documented in two recent court cases:

- A case was brought by two lesbian school administrators who were terminated after a student complained that they had been seen “holding hands and walking into a Victoria’s Secret store.”¹³ The women stated that after the incident, the superintendent then spoke to them about the allegations, angrily stating that he “knew all about” them. During the following year, the school underwent a reorganization and both of their positions were eliminated. The women then applied to several job openings but were not selected for any of them. They filed suit alleging violation of their equal protection rights on the basis of sexual orientation. Following a trial, the jury found that the school superintendent had unconstitutionally discriminated against the women, awarding them \$160,515 in damages. On appeal, the Tenth Circuit held that the superintendent was not the final policymaker for the district and, therefore, the district could not be liable for his actions. The Circuit Court further concluded that in 2003, discrimination on the basis of sexual orientation was not clearly established to be unconstitutional and, therefore, qualified immunity protected the superintendent from personal liability.¹⁴
- A case was brought by a state agency employee for gender discrimination based on comments made by his supervisor about his perceived LGBT status. The Wyoming district court granted summary judgment to the state agency, holding that “[s]exual orientation is conspicuously and intentionally absent from the list of protected categories under Title VII,” and that “[r]ecasting allegations of homophobia as ‘sex stereotyping’ does not of itself bring the action under the purview of the Civil Rights Act.”¹⁵ The Tenth Circuit affirmed the decision.¹⁶

Additionally, several comments made by state legislators indicate a lack of awareness around discrimination based on sexual orientation and gender identity in the state:

- In 2013, during debate for a bill that would prohibit sexual orientation and gender identity discrimination in marriage and employment, one representative spoke in favor of an employer’s ability to discriminate based on sexual orientation and gender identity, citing her belief that these characteristics were voluntary and “harmful to the mind, body and spirit.”¹⁷
- In the same debate, one state legislator stated, “At the end of the day, I’m really curious as to whether we’re just looking for a problem that necessarily doesn’t need a solution.”¹⁸

According to anecdotal reports, LGBT people in Wyoming tend to be private about their sexual orientation, in part, out of fear. As one *Time Magazine* article reported, a gay man who recently relocated to Wyoming with his same-sex partner “‘didn’t expect that people in Wyoming would be as closeted as they are’. . . . One reason is that gay bashings still occur. Not long ago, [the man reported], a gay couple w[as] assaulted in a bar in a rural part of Wyoming. One of the victims had to see a doctor for bruised ribs and cartilage damage. But the men didn’t file a police report. ‘I suspect it has to do with them not wanting to out themselves to the police . . . They were embarrassed to say they were gay.’”¹⁹

The author also “met a lesbian couple who have lived in the same Casper home for 21 years and yet have never spoken openly with the neighbors about their love for each other. Instead, they let people think they are just roommates.” According to the reporter, “Wyoming has constructed an entire culture around the fraught military concept known as ‘Don’t ask, don’t tell.’ Nearly every Wyomingite I met used that phrase, or a version of it, with respect to homosexuality. ‘People have an open mind but a closed mouth here,’” said former Senator Simpson.²⁰

Wage Inequity

Census data show that individuals in same-sex couples in Wyoming earn less than individuals married to different-sex partners. On average, men in same-sex couples in Wyoming earn \$29,500 each year, significantly less than the \$40,764 for men married to different-sex partners.²¹ The median income of men in same-sex couples in Wyoming is \$29,500, 16% less than that of married men (\$35,000).²² Similarly, women in same-sex couples earn an average of \$11,306 per year, which is significantly less than the average of \$18,419 per year for women married to different-sex partners.²³ The median income of women in same-sex couples is \$10,000, 33 percent less than the median income of women married to different-sex partners (\$15,000).²⁴ A 2009 study indicated that the wage gap for gay men is smaller in states that implement non-discrimination laws, suggesting that such laws reduce discrimination against LGBT people.²⁵

These findings are not unique to Wyoming. Analyses of national data consistently find that men in same-sex couples and gay men earn 10-32% less than similarly qualified men who are married to different-sex partners, or men who identify as heterosexual.²⁶ Surveys of transgender people find that they have high rates of unemployment and very low earnings.²⁷

Current Protections from Discrimination

Wyoming does not have a statewide law that prohibits employment discrimination based on sexual orientation or gender identity.²⁸ In January 2013, the Wyoming Senate considered a bill, Wyoming Senate File 131, that would have prohibited employment discrimination and wage inequities on the basis of sexual orientation and gender identity.²⁹ The bill was defeated on a roll call vote in the Senate.³⁰ A similar bill, introduced in 2009, sought to prohibit employment discrimination based on sexual orientation, but did not include gender identity.³¹ That bill did not make it out of committee.³²

Several universities and private corporations in Wyoming have adopted internal policies that prohibit discrimination based on sexual orientation and gender identity in employment.

Statewide Non-Discrimination Laws in Wyoming

Title 27 of the Wyoming State Statutes governs matters of labor and employment. It prohibits employment discrimination by most employers with two or more employees³³ because of age, sex, race, creed, color, national origin, ancestry or pregnancy.³⁴ Employers may not hire or discharge, promote or

demote, or provide unequal compensation to individuals because of these characteristics. Title 27 does not apply to religious organizations, which are exempt from the definition of employer.³⁵

The Wyoming Department of Workforce Services Labor Standards Office enforces labor and employment laws in Wyoming. The Labor Standards Office exists to “process, investigate, mediate and render decisions on complaints of employment discrimination and claims for wages.”³⁶ An employee must file a complaint with the Labor Standards Office within 90 days of when the discriminatory practice occurred.³⁷

In 2013, the Labor Standards Office handled 188 complaints of employment discrimination³⁸ and operated on a budget of \$960,000.³⁹

Local-Level Protections from Discrimination

No local ordinances in Wyoming prohibit private sector employment discrimination based on sexual orientation or gender identity.⁴⁰ This makes Wyoming one of eleven states without any local ordinances preventing such discrimination in the private sector.⁴¹ On May 28, 2014 the town of Jackson Hole became the first locality in Wyoming to prohibit discrimination based on sexual orientation and gender identity in the public sector when it amended the town’s employee policy manual.⁴² Jackson Hole’s policy covers less than 1% of Wyoming’s workforce.

Private Company and University Non-Discrimination Policies

Private companies adopt internal policies prohibiting discrimination based on sexual orientation and gender identity for a variety of reasons including improved recruitment and retention of talented employees, increasing employee productivity and customer satisfaction, and attracting a larger customer base.⁴³ One study of corporate motivations behind adopting workplace non-discrimination policies found that 53% of the top companies in the U.S. with LGBT-supportive policies had adopted the policies for economic reasons.⁴⁴

Academic research has found that LGBT-supportive corporate policies are linked to positive business-related outcomes, including greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes among LGBT employees.⁴⁵ For example, a 2006 national poll found that 89% of LGBT respondents and 72% of non-LGBT respondents reported that when deciding where to work, it was important that an employer have a written non-discrimination policy that includes race, ethnicity, sex, religion, age, sexual orientation and disability.⁴⁶ Research also suggests that employers limit their available talent pool by screening out applicants based on their sexual orientation. One study found that the rate of screening out gay male applicants was twice as high in regions without sexual orientation non-discrimination laws.⁴⁷

Additionally, LGBT-supportive workplace policies can expand opportunities to secure potentially lucrative government contracts for corporate employers. A 2011 study found that 68 local governments had laws requiring contractors to have LGBT-inclusive non-discrimination policies.⁴⁸ A number of states

have similar laws that apply to state government contracts.⁴⁹ Without such policies, companies would not be eligible to bid for contracts with these state and local governments.

Many of Wyoming's top employers have adopted internal policies that prohibit sexual orientation and gender identity discrimination. Several of Wyoming's largest private sector employers including Halliburton, Rio Tinto, Lowe's, and Walmart, have policies prohibiting discrimination based on sexual orientation.⁵⁰ Lowe's and Walmart also prohibit discrimination based on gender identity.⁵¹

Additionally, the University of Wyoming, Wyoming's largest employer, prohibits employment discrimination based on sexual orientation.⁵² The University employed over five thousand people in 2011.⁵³

Public Opinion

Public opinion in Wyoming supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 69% of those polled in Wyoming said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.⁵⁴

In addition, public opinion data indicate that Wyoming residents perceive the state as unfriendly to LGBT people. Aggregated data from two large public opinion polls found that 78% of Wyoming residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.⁵⁵

Administrative Impact

Complaint Estimate

Despite the persistence and pervasiveness of employment discrimination against LGBT people, studies show that enforcing sexual orientation and gender identity provisions in non-discrimination laws has only a minimal burden on state agencies. Complaints of sexual orientation discrimination are filed by LGBT people at approximately the same rate as complaints of race and sex discrimination are filed by people of color and women, respectively.⁵⁶ However, because the LGBT population is so small, the absolute number of sexual orientation and gender identity complaints filed under state non-discrimination laws is very low.⁵⁷

We estimate that approximately four complaints of sexual orientation or gender identity discrimination would be filed with the Wyoming Labor Standards Office each year. To reach this estimate, we drew on Gallup polling data and Census data from Wyoming to estimate the size of the LGBT workforce in the state, and applied a national sexual orientation and gender identity complaint rate to that population. We have previously used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states, including South Carolina, Missouri, Ohio, Pennsylvania, South Dakota, Texas, Utah, and West Virginia.⁵⁸

Results from a 2012 Gallup poll show that 2.9% of people in Wyoming identify as LGBT.⁵⁹ Applying this percentage to the number of people in Wyoming's workforce (305,965⁶⁰) indicates that there are 8,873 LGBT workers in Wyoming.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Wyoming to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We used the national average complaint rate from a 2008 study that analyzed administrative complaint data from 17 states that prohibited sexual orientation discrimination at that time.⁶¹ The study found that across these states, the average rate of complaints filed on the basis of sexual orientation was 4.7 per 10,000 LGB workers.⁶² There is not sufficient data to make a similar calculation of the average rate of complaints file on the basis of gender identity.⁶³ Therefore, we assume that this rate is also 4.7 per 10,000 transgender workers.

Applying the national complaint rate (4.7 per 10,000 LGBT workers) to the number of LGBT workers in Wyoming (8,873) suggests that four complaints of sexual orientation and gender identity discrimination would be filed annually if these characteristics were added to the state's employment non-discrimination law.

Cost of Enforcement

Using Information from the Wyoming Department of Workforce Services 2012-2013 Strategic Plan,⁶⁴ it is possible to estimate the cost associated with handling the additional four complaints that would be filed if sexual orientation and gender identity were added to Wyoming's employment non-discrimination laws.

In 2013, the Labor Standards Office handled 188 fair employment claims.⁶⁵ Its operating budget allocated for employment claims (including outreach and training) was \$960,000.⁶⁶ The Labor Standards Office estimated that each claim handled in 2013 cost the office \$2,700.⁶⁷ Based on that estimate of cost per complaint, the additional four complaints estimated above would result in an estimated increase of \$10,800 per year, or about 1.1 percent of the 2013 budget.

This estimate is likely to be conservatively high. Annual fluctuations in the number of complaints filed with the Labor Standards Office have varied, on average, by more than four complaints over the four fiscal year periods for which data are available, FY2010 – FY 2013. From FY2010 through FY2013, the number of complaints filed from year to year varied by 7 complaints, on average. In years 2011, 2012, 2013, the Labor Standards Office operated on the same budget of \$960,000. Because the office was able to absorb the annual fluctuations into its existing budget, it is likely that the additional complaints filed on the basis of sexual orientation and gender identity could also be absorbed into the existing budget with minimal impact on the Labor Standards Office.

Fiscal Year	Number of Complaints Handled	Budget
2013	188 ⁶⁸	\$960,000 ⁶⁹
2012	191 ⁷⁰	\$960,000 ⁷¹
2011	197 ⁷²	\$960,000 ⁷³
2010	210 ⁷⁴	Not available

Conclusion

Documented evidence shows that LGBT people face employment discrimination across the country, including in Wyoming. There is currently no statewide law that prohibits employment discrimination based on sexual orientation or gender identity in Wyoming. Adding these characteristics to Wyoming’s employment non-discrimination laws would provide protection from discrimination to approximately 8,900 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately four complaints of sexual orientation or gender identity employment discrimination would be filed in Wyoming annually if the law were amended. A conservatively high estimate based on data from the Wyoming Department of Workforce Services Labor Standards Office suggests that it would cost the state approximately \$10,800 to enforce these complaints each year; which represents 1.1% of the Office’s budget in 2013. Given fluctuations in number of complaints filed annually, it is likely that the additional four complaints could be absorbed with little impact on the staff and negligible costs.

About the Williams Institute

The Williams Institute on Sexual Orientation and Gender Identity Law and Public Policy at UCLA School of Law advances law and public policy through rigorous, independent research and scholarship, and disseminates its work through a variety of education programs and media to judges, legislators, lawyers, other policymakers and the public. These studies can be accessed at the Williams Institute website.

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Endnotes

¹ Cathy Connolly & Gail Leedy, *Out in the Cowboy State: A Look at Gay and Lesbian Lives in Wyoming*, 19 J. GAY & LESBIAN SOC. SERV'S. 17, 25 (2006), http://libres.uncg.edu/ir/asu/f/Leedy_Gail_2006_Out_in_the_cowboy.pdf.

² These estimates were reached by applying the percentage of people in Wyoming that are LGBT (2.9 percent) to the population of Wyoming aged 16 years and older (453,994) and the number of people in the Wyoming labor force (305,965), respectively. Gary J. Gates & Frank Newport, *LGBT Percentage Highest in D.C., Lowest in North Dakota*, GALLUP, Feb. 15, 2013, <http://www.gallup.com/poll/160517/lgbt-percentage-highest-lowest-north-dakota.aspx>; American Community Survey, U.S. Census Bureau, American FactFinder, 2012 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03&prodType=table.

³ Calculated by authors using data from the American Community Survey, 2010-2012 3-Year-Estimates & 2008-2012 5-Year-Estimates, Select Economic Characteristics tables (civilian labor force numbers) available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited July 30, 2014).

⁴ Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).

⁵ A Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times, Pew Research Center, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.

⁶ BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.

⁷ JAMIE M. GRANT, LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, & MARA KEISLING, INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 51 (2011), http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

⁸ Cathy Connolly & Gail Leedy, *Out in the Cowboy State: A Look at Gay and Lesbian Lives in Wyoming*, 19 J. GAY & LESBIAN SOC. SERV'S. 17, 25 (2006), http://libres.uncg.edu/ir/asu/f/Leedy_Gail_2006_Out_in_the_cowboy.pdf.

⁹ *Id.* at 25.

¹⁰ *Id.* at 20.

¹¹ *Id.* at 31.

¹² SEARS & MALLORY, *supra* note 6.

¹³ *Milligan-Hitt v. Bd. of Tr. of Sheridan County Sch. Dist. No. 2*, 523 F.3d 1219 (10th Cir. 2008).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Brockman v. Wyoming*, 342 F.3d 1159, 1169 (10th Cir. 2003), *cert. denied*, 540 U.S. 1219 (2004).

¹⁷ *Wyoming House Panel Advances Domestic Partnerships Legislation*, CASPER STAR-TRIBUNE, January 29, 2013, http://trib.com/news/state-and-regional/govt-and-politics/wyoming-house-panel-advances-domestic-partnerships-legislation/article_400aba01-d5d4-5d0b-bdc2-2cf5dc1c676f.html.

¹⁸ *Wyoming Legislature Roundup*, N. WYO. DAILY NEWS, 2013 WLNLR 2673687, Feb. 1, 2013.

¹⁹ John Cloud, *The New Face of Gay Power*, 162 TIME 15, Oct. 5, 2003, at 52.

²⁰ *Id.*

²¹ ADAM P. ROMERO, CLIFFORD J. ROSKY, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: WYOMING 3 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/WyomingCensus2000Snapshot.pdf>.

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ GARY J. GATES, CAL. CTR. FOR POP. RESEARCH, THE IMPACT OF SEXUAL ORIENTATION ANTI-DISCRIMINATION POLICIES ON THE WAGES OF LESBIANS AND GAY MEN (2009), <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.

²⁶ M.V. Lee Badgett, Holning Lau, Brad Sears & Deborah Ho, *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination 1998-2008*, 84 CHI.-KENT L. REV. 559, 559-60 (2009).

²⁷ *Id.*

²⁸ State Profile – Wyoming, Movement Advancement Project, http://www.lgbtmap.org/equality_maps/profile_state/51.

²⁹ S. 131, 2009 Leg. Sess. (Wyo. 2013). A similar effort was made in 2010, when H.R. 087 was introduced to modify Wyoming statutes with anti-discrimination language to include both sexual orientation and gender discrimination. The bill was not presented for full debate, though it passed the House Judiciary Committee. H.R. 87, 2010 Budget Sess. (Wyo. 2010).

³⁰ *Id.*

³¹ H.R. 203, 2009 Leg. Sess. (Wyo. 2009).

³² Though no other bills regarding employment discrimination against LGBT people have been proposed in the state legislature, the Wyoming House did consider two bills in 2013 that would have lifted the ban on same-sex marriages and same-sex domestic partnerships, though these bills also failed to advance past committee. Joan Barron, *Wyoming Senate Defeats Gay Discrimination Bill*, CASPER STAR-TRIBUNE, Jan. 31, 2013, http://trib.com/news/state-and-regional/govt-and-politics/wyoming-senate-defeats-gay-discrimination-bill/article_fe8fef74-547b-5fb5-9de0-67d2314283da.html; H.R. 169, 2009 Leg. Sess. (Wyo. 2009); H.R. 168, 2009 Leg. Sess. (Wyo. 2009).

³³ WYO. STAT. ANN. § 27-9-102(b) (2012).

³⁴ *Id.* §§ 27-9-105(a)(i)–(ii).

³⁵ *Id.* § 27-9-102(b).

³⁶ Labor Standards, Wyo. Dept. of Workforce Serv's., <http://wyomingworkforce.org/job-seekers-and-workers/labor-standards/Pages/default.aspx>.

³⁷ Fair Employment Rules, Wyo. Dept. of Workforce Serv's., ch. III, §3(b), [http://wyomingworkforce.org/employers-and-businesses/labor-standards/Documents/Chapter percent203 percent20- percent20Fair percent20Employment percent20Rules.pdf](http://wyomingworkforce.org/employers-and-businesses/labor-standards/Documents/Chapter%203%20-%20Fair%20Employment%20Rules.pdf).

³⁸ Wyo. Dept. of Workforce Serv's., *Workstat Program Performance Report*, v1.0 (Aug. 2013) (on file with author).

³⁹ Wyo. Dept. of Workforce Serv's., *Workstat Program Snapshot Form*, v1.0 (Aug. 2013) (on file with author).

⁴⁰ State Profile – Wyoming, Movement Advancement Project, http://www.lgbtmap.org/equality_maps/profile_state/51.

⁴¹ Local Employment Non-Discrimination Ordinances, Movement Advancement Project, http://www.lgbtmap.org/equality-maps/non_discrimination_ordinances.

⁴² *Celebrating a Wyoming First in Jackson Hole*, HRC BLOG, May 28, 2014, <http://www.hrc.org/blog/entry/celebrating-a-wyoming-first-in-jackson-hole>.

⁴³ See BRAD SEARS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.

⁴⁴ *Id.*

⁴⁵ M.V. LEE BADGETT, LAURA E. DURSO, ANGELIKI KASTANIS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, THE BUSINESS IMPACT OF LGBT-SUPPORTIVE WORKPLACE POLICIES (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>.

⁴⁶ Out & Equal, Harris Interactive & Witeck Combs Commc'n, *Majority of Americans: Companies Not Government Should Decide Benefits Offered to Same-Sex Employees*, OUTANDEQUAL.ORG (May 22, 2006), http://outandequal.org/documents/2006_Workplace_Survey052306.pdf.

⁴⁷ Andras Tilcsik, *Pride and Prejudice: Employment Discrimination against Openly Gay Men in the United States*, 117 AM. J. SOC. 586, 590-93 (2011).

⁴⁸ Christy Mallory & Brad Sears, *An Evaluation of Local Laws Requiring Government Contractors to Adopt LGBT-Related Workplace Policies*, 5 ALBANY GOV'T L. REV. 478, 481 (2011).

⁴⁹ For example, California (CAL. GOV. CODE § 12990 (2013)), Delaware (DEL. CODE ANN. tit., 29 § 6962(d)(7) (2013)), and Maryland (MD. CODE ANN., STATE FIN. & PROC. § 19-101 (LexisNexis 2013)), among others.

⁵⁰ ECUMENICAL COUNCIL FOR CORPORATE RESPONSIBILITY, RIO TINTO – REVISITING THE PRINCIPLES: A DECADE OF CORPORATE RESPONSIBILITY REVIEWED (Apr. 2006), http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CCwQFjAC&url=http%3A%2Fwww.eccr.org.uk%2Fmodule-Downloads-prep_hand_out-lid-11.html&ei=peehU6zml6TNsQTP0oGoDQ&usg=AFQjCNH2zVMv8BeV-d36FjL-YsmaKxBxKQ&sig2=1Ed02rTG-VRpsvK-CX-s5w (reviewing Rio Tinto's policies); HUMAN RIGHTS CAMPAIGN, CORPORATE EQUALITY INDEX 2014, <http://www.hrc.org/campaigns/corporate-equality-index> (ranking each of Halliburton, Lowe's and Walmart's policies); Kevin Litwin, *Wyoming Top Employers*, BUS. CLIMATE, March 27, 2014, <http://businessclimate.com/wyoming-economic-development/wyoming-top-employers>.

⁵¹ HUMAN RIGHTS CAMPAIGN, CORPORATE EQUALITY INDEX 2014, *supra* note **Error! Bookmark not defined.**

⁵² University of Wyoming, Laramie, Univ. Reg. 3, Rev. 2 (June 17, 2007) http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&ved=0CDUQFjAC&url=http%3A%2Fwww.uwyo.edu%2Fgeneralcounsel%2F_files%2Fdocs%2F3-rev-2.doc&ei=VYSxU-uJJ5W0sAS75ICADg&usg=AFQjCNEIOzGlcKR08SR7UXCKumU1kL5hpw&sig2=xj67W38_Y_wAnYRz3gHcA&bvm=bv.69837884,d.cWc (describing University of Wyoming policy).

⁵³ Litwin, *supra* note 50.

⁵⁴ Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).

⁵⁵ Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with author).

⁵⁶ M.V. LEE BADGETT, CHRISTOPHER RAMOS & BRAD SEARS, WILLIAMS INST., EVIDENCE OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY: COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES 1999-2007 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Sears-Ramos-Employ-Discrim-1999-2007-Nov->

08.pdf; William B. Rubenstein, *Do Gay Rights Laws Matter?: An Empirical Assessment*, 75 S. CAL. L. REV. 66, 79-81 (2001).

⁵⁷ BADGETT, RAMOS, & SEARS, *supra* note 56.

⁵⁸ See *Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

⁵⁹ Gary J. Gates & Frank Newport, *supra* note 2.

⁶⁰ American Community Survey, U.S. Census Bureau, American FactFinder, 2012 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03&prodType=table.

⁶¹ **Error! Hyperlink reference not valid.** “National average” refers to the average of the complaint rates in 17 states across the country that prohibited sexual orientation discrimination in 2008. BADGETT, RAMOS & SEARS, *supra* note 56.

⁶² The data gathered for the 2008 study included all employment discrimination complaints filed on the basis of sexual orientation; it was not limited to complaints filed by LGB employees. Heterosexual employees may also file complaints under sexual orientation non-discrimination laws if they were discriminated against because of their heterosexuality or because they were perceived to be LGB. However, we use the LGB workforce as the underlying population for purposes of our analysis because LGB employees likely file the vast majority of sexual orientation discrimination complaints. See Rubenstein, *supra* note 56.

⁶³ BADGETT, RAMOS & SEARS, *supra* note 56, at 5.

⁶⁴ WYO. DEPT. OF WORKFORCE SERV’S., WYO. DEPT. OF WORKFORCE SERV’S. 2012-2013 STRATEGIC PLAN, http://wyomingworkforce.org/Documents/dws_StrategicPlan2011-2013.pdf.

⁶⁵ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Performance Report*, *supra* note 38.

⁶⁶ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Snapshot Form*, *supra* note 39.

⁶⁷ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Performance Report*, *supra* note 16.

⁶⁸ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Performance Report*, *supra* note 38.

⁶⁹ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Snapshot Form*, *supra* note 39.

⁷⁰ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Performance Report*, *supra* note 38.

⁷¹ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Snapshot Form*, *supra* note 39.

⁷² Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Performance Report*, *supra* note 38.

⁷³ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Snapshot Form*, *supra* note 39.

⁷⁴ Wyo. Dept. of Workforce Serv’*s.*, *Workstat Program Performance Report*, *supra* note 38.