A BROKEN BARGAIN FOR LGBT WORKERS OF COLOR

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EXECUTIVE SUMMARY

The basic American bargain is that people who work hard and meet their responsibilities should be able to get ahead. It is an agreement that workers will be judged and rewarded based on their contributions and capabilities—no matter who they are, what they look like, or where they are from. This basic bargain is not just an idea—it is embedded in laws that promote equal access to jobs and that protect workers from unfair practices.

For LGBT workers of color in America, this bargain is in tatters. Instead of having a fair chance to get ahead, LGBT workers of color often are held back by a combination of barriers that adversely affect their ability to get a quality education and find good, family-supporting jobs in workplaces that are free of discrimination. While it can be hard to identify exactly how the forces of bias and prejudice based on race, sexual orientation and gender identity intersect, the fact is that they do so to the detriment of LGBT workers of color, making them some of the most disadvantaged workers in the U.S. workforce.

Among the results of these inequities are extraordinarily high rates of unemployment and poverty for LGBT workers of color in the United States.

LGBT Workers of Color in America

Contrary to common stereotypes, LGBT people are more racially and ethnically diverse than the U.S. population as a whole. The report presents the latest demographic information about LGBT workers of color, including:

- **As many as one-third of LGBT people are people of color.** In a 2012 Gallup poll, one in three LGBT respondents (33%) identified themselves as people of color, compared to 27% of non-LGBT respondents. In all, MAP estimates that there are 5.4 million LGBT workers in the United States, of which 1.8 million are people of color.
- **The LGBT population includes large numbers of immigrants.** There are an estimated 904,000 LGBT adult immigrants in the United States; an estimated 32,300 binational same-sex couples (couples where one member is not an American citizen); and 11,700 same-sex couples where both members are not American citizens. Many of these immigrants are Latino or Asian.
- **LGBT workers of color are geographically dispersed.** Despite the common assumption that LGBT people predominantly live in major metropolitan areas or in states with policies favorable to LGBT people, data from the Census tell a story of a population that is geographically dispersed throughout the nation. The same is true for LGBT people of color.
- **Large numbers of LGBT workers of color are raising children.** Data from the 2010 Census show that LGBT people of color are more likely to be raising children than white LGBT people. MAP estimates that between 780,000 and 1.1 million children are being raised by LGBT people of color.
- **LGBT youth are at high risk of becoming homeless.** An estimated 20-40% of homeless youth in the U.S. identify as LGBT or believe they may be LGBT. Research also shows that African American and Native American young people are overrepresented both among LGBT homeless youth, and among the broader homeless population. One study found that among homeless youth who identify as gay or lesbian, 44% identified as black and 26% identified as Latino.
- **LGBT workers of color are at significant risk of being unemployed.** LGBT people of color have higher rates of unemployment compared to non-LGBT people of color. In addition, unemployment rates for transgender people of color have reached as high as four times the national unemployment rate.
- **LGBT workers of color are at significant risk of poverty.** Research shows that LGBT people of color, and particularly black LGBT people, are at a much higher risk of poverty than non-LGBT people. For example, black people in same-sex couples have poverty rates at least twice the rate of black people in opposite-sex married couples (18% vs. 8%).

Obstacles to Good Jobs for LGBT People of Color

The report examines how LGBT workers of color face unique challenges related to their race and ethnicity and their sexual orientation and/or gender identity in three areas:



Obstacle #1: Educational Barriers

Substantial and systemic barriers keep millions of American children from obtaining a safe, quality education. Among the children who are most at risk of falling through the cracks of the U.S. educational system

are LGBT youth of color. The following are the key barriers to a good education for these young people:

Unsafe K-12 Schools. LGBT youth of color may face multiple forms of harassment and bullying at school—based on their sexual orientation or gender identity *and* their race or ethnicity. A 2007 study found that nearly half (48%) of LGBT students of color experienced verbal harassment because of *both* their sexual orientation and their race or ethnicity, and 15% had been physically harassed or assaulted based on both of these aspects of their identity.

Under-Resourced Schools. Students of color make up three-quarters of the enrollment at the lowest-performing high schools in the U.S., and they are six times more likely to attend such a school than white students. In addition to providing an inferior educational experience for students, under-resourced schools often lack supportive and experienced teachers and staff who can help LGBT students deal with issues such as bullying and harassment. They also are unlikely to have gay-straight alliances (GSAs) and other programs addressing issues experienced by LGBT students.

The School-to-Prison Pipeline. Broken educational systems—in which students are unsafe and don't receive the academic, social or developmental support they need—mean that students are not engaged academically and are at greater risk of acting out at school. When youth act out, they in turn risk entering what is known as the *school-to-prison pipeline* in which they are suspended, expelled, or otherwise removed from school settings and instead pushed into the juvenile justice and broader correctional systems. A 2012 survey of LGBT people conducted by Lambda Legal found that 79% of LGBT youth of color reported that they had interactions with security or law enforcement in their middle or high school years, compared to 63% of white LGBT youth.

Barriers to Higher Education. The educational barriers described above mean that a disproportionate number of LGBT youth of color are not academically prepared to apply to or attend a post-secondary educational institution. Moreover, even when an LGBT student of color *does* pursue a higher education, financial barriers, an unsupportive campus climate, and a lack of institutional support can play a large role in whether the student completes his or her studies. Research shows that students of color have substantially lower college completion rates compared to white students.



Obstacle #2: Hiring Bias and On-the-Job Discrimination

The barriers discussed in this section of the report combine to make it difficult for many LGBT workers of color to find good and steady jobs that provide them with the economic security they need to support themselves and their families. The following are the key barriers to good and steady jobs for LGBT people of color:

Unwarranted Background Checks. Many employers use background checks to unfairly disqualify candidates. For workers of color, and LGBT workers of color in particular, these checks can be problematic and can make securing employment more difficult. For example, the school-to-prison pipeline and high rates of homelessness, along with much higher rates of incarceration for people of color generally, mean that LGBT people of color are more likely to have been incarcerated and to have a criminal record. In addition, LGBT workers of color, because of lower educational attainment and higher rates of unemployment, may be disproportionately likely to have poor credit and therefore face challenges in obtaining jobs that require credit checks.

Hiring Bias and On-the-Job Discrimination. Once on the job, LGBT workers of color experience high rates of discrimination and additional challenges in the workplace due to discrimination based on race, sex, sexual orientation and/or gender identity. For example, surveys of black LGBT people put rates of employment discrimination near 50%. Between 75% and 82% of Asian and Pacific Islander (API) LGBT people said they had been discriminated against at work because of their sexual orientation.

Inadequate Nondiscrimination Laws. Title VII of the Civil Rights Act prohibits employment-related discrimination on the basis of race and ethnicity, but research shows that such discrimination still limits opportunities for people of color. In addition, there is no federal law that explicitly protects LGBT workers from discrimination and harassment. This means that a worker of color who experiences discrimination because he or she is gay or lesbian can be legally fired under federal law. As for the states, only 17 states and the District of Columbia have expanded their laws to include explicit nondiscrimination protections for workers based on their gender identity/expression, while 21 states and the District of Columbia explicitly prohibit discrimination based on sexual orientation.

Lack of Mentorship and On-the-Job Support. LGBT workers of color may have trouble advancing at work because of a lack of support. These workers often leave an employer because of the simple fact that there is no one in the workplace who can mentor them, act as a sponsor or advocate, or serve as a role model. Very few leaders within organizations are people of color, let alone openly LGBT people of color. Furthermore, even when an organization has an employee resource group for LGBT workers, it is often the case that the group's leaders and many of its members are white.

Lack of Legal Work Authorization. It is estimated that there are approximately 267,000 LGBT individuals who are in the U.S. without legal authorization. Of these, 71% identify as Latino, 15% as Asian and Pacific Islander and 6% as black. These immigrants have few options aside from minimum-wage jobs and jobs that do not provide any benefits. In addition, they may be afraid to speak up when they see or experience legal violations, such as unsafe working conditions or unfair wages, out of fear of being deported.



Obstacle #3: Unequal Pay, Benefits and Taxation

LGBT workers of color receive unequal pay and unfair access to job-related benefits, leaving them with less to care for themselves and their families—even if they are doing the same jobs and working just as hard as other workers. The following are the key barriers to equal pay and benefits for LGBT workers of color:

Wage gaps and penalties. Although there is little data on the wage penalty for LGBT workers of color specifically, broader population data show that both race and LGBT status affect worker paychecks, meaning the penalties are likely compounded for LGBT workers of color. Generally, workers of color make less on the job than white people. Similarly, studies consistently find that sexual orientation and gender identity/expression play a role in workplace wages. For example, gay and bisexual men experience a clear wage penalty, earning earn between 10% and 32% less than heterosexual men.

Lack of job-related benefits. When it comes to family benefits, LGBT workers of color face three challenges that threaten the financial security and the health of workers and their families. First, the jobs occupied by workers of color are less likely to provide a family-supporting wage and benefits. Second, eligibility for benefits is usually designed around traditional family structures—which often do not reflect the reality of LGBT families of color. Third, the law often prevents LGBT workers and those who are raising legally unrelated children from meeting the legal requirements for accessing family benefits. The result: LGBT workers of color have unequal access to health insurance coverage for themselves and their families, job-protected family and medical leave, Social Security spousal and survivors' benefits, and other important job benefits.

A higher tax burden. LGBT workers can be denied many important family and child tax credits, resulting in significantly higher taxation. This happens for two primary reasons. First, when same-sex couples cannot marry they also cannot file a joint federal tax return (which results in a much lower tax payment for most households). Second, when parents cannot form legal ties to their children, they also generally cannot claim many important child-related deductions and credits. Because of unequal taxation, same-sex couples of color and their children can be left with significantly less money, both to provide for their families now and to save for the future.

Recommendations

The report offers detailed recommendations for action to fix the broken bargain for LGBT workers of color by federal, state and local governments, as well as schools, colleges/universities, and employers. The following is a sampling of some of the headline recommendations in the report:

Eliminating or reducing educational barriers for LGBT youth of color.

- Congress should pass legislation such as the Safe Schools Improvement Act (SSIA) and the Student Non-Discrimination Act (SNDA) in an effort to reduce discrimination and bullying in schools.
- The federal government should work with state and local governments to promote alternative disciplinary policies that combat the school-to-prison pipeline.
- State lawmakers should pass safe schools laws that target bullying and protect LGBT students of color from discrimination and harassment.

- Local school districts should revise discipline policies to better ensure student safety while working to keep students in school.

Eliminating or reducing bias and discrimination against LGBT workers of color.

- Congress should pass legislation to ban employment discrimination nationwide on the basis of gender identity/expression and sexual orientation.
- The President should mandate that federal contractors prohibit discrimination on the basis of gender identity/expression and sexual orientation.
- State and local lawmakers should ban employment discrimination in states/municipalities without current protections for gender identity/expression and/or sexual orientation.
- Employers should adopt LGBT-inclusive nondiscrimination policies and procedures designed to significantly reduce hiring bias, foster welcoming and inclusive work environments, and reduce discrimination.
- Employers should eliminate policies and practices that exclude people from consideration for employment based on a criminal record or poor credit unless such checks are strictly necessary for the position.

Securing equal pay and benefits for LGBT workers of color.

- Congress and state lawmakers should increase protections against wage discrimination based on race, ethnicity, national origin, sexual orientation and gender identity/expression
- Congress should pass laws broadening access to family health benefits for all workers' partners and dependents, including for federal employees, regardless of marital status or legal status of parent-child relationships.
- Federal and state governments and employers should revise family and medical leave laws and workplace leave policies to extend job-protected leave to LGBT workers.
- Congress should expand Social Security retirement benefits to include all same-sex partners and ensure equal access to earned Social Security death and disability benefits for partners/spouses of LGBT workers and any children for whom the worker functions as a parent.
- State lawmakers should legalize marriage for same-sex couples in all states.
- State lawmakers should pass comprehensive parental recognition laws at the state level to help LGBT parents gain legal ties to their children.
- Employers should institute fair wage policies.
- Employers should offer affordable health insurance benefits, including equal family coverage for the partners of all employees and their dependents, regardless of marital status or legal status of parent-child relationships.

Conclusion

Fixing the broken bargain for LGBT workers of color will help ensure that they are treated fairly no matter where they work, that they receive the same compensation for the same work, and that they can access important benefits available to other workers to protect their health and livelihood. It is time to send LGBT workers of color the message that they matter, and to show that our nation and our economy are stronger when we treat all workers fairly.

INTRODUCTION

The U.S. workforce reflects the diversity of American society. More than any other part of most Americans' lives, the workplace serves as a place where workers from diverse backgrounds come together every day.

It is well established that a worker's opportunities and experiences in the workforce can vary based on characteristics such as gender, race or ethnicity, religion, age, sexual orientation, or even the part of the country where they live. For example, women often have a harder time accessing good jobs and fair pay than men, and people of color have a harder time doing so than people who are white.

Adding to the variation is the fact that workers often enter the workplace with multiple identities – for example, a worker can be female and black, or Latino and gay. As these identities intersect, so do societal biases and stigma, which result in unique challenges and barriers to success in the workplace.

This companion report to the larger report, *A Broken Bargain: Discrimination, Fewer Benefits and More Taxes for LGBT Workers*, released in June 2013, focuses on the barriers facing workers who are both LGBT (lesbian, gay, bisexual or transgender) and people of color.[a] The experiences of these LGBT workers of color often do not exactly mirror the experiences of other workers of color, just as they often do not mirror the experiences of white LGBT workers. LGBT workers of color can face bias because of their race, because they are LGBT, or both.

A Broken Bargain outlines how the basic American bargain—that people who work hard and meet their responsibilities can get ahead—is broken for LGBT workers. If anything, the bargain falls apart almost entirely for LGBT workers of color.

First, systemic barriers and inequities in the educational system make it harder for LGBT people of color to meet workforce qualifications. Next, while there are laws in place to help protect workers from discrimination based on race and ethnicity, such discrimination is still widespread—and shockingly, it is still legal to fire or refuse to hire someone for being gay or lesbian in the majority of states. Finally, LGBT workers of color are denied or lack access to many job-related benefits that other workers take for granted, making it harder for these workers to earn a living and provide for their families. This report examines these injustices and offers common-sense recommendations for change.

LGBT Workers of Color in America

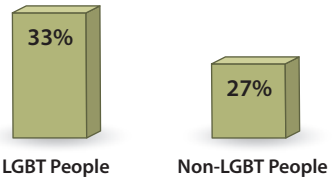
Contrary to common stereotypes, LGBT people are more racially and ethnically diverse than the U.S. population as a whole. In a 2012 Gallup poll, for example, one in three LGBT respondents (33%) identified themselves as people of color, compared to 27% of non-LGBT individuals (see *Figure 1*). Additionally, Latino, African American, and multi-racial respondents were more likely to identify as LGBT than white respondents.

The LGBT population also includes a significant number of immigrants, many of whom are people of color. There are an estimated 904,000 LGBT adult

Figure 1: LGBT People Are Racially and Ethnically Diverse

Percent of People Identifying as People of Color

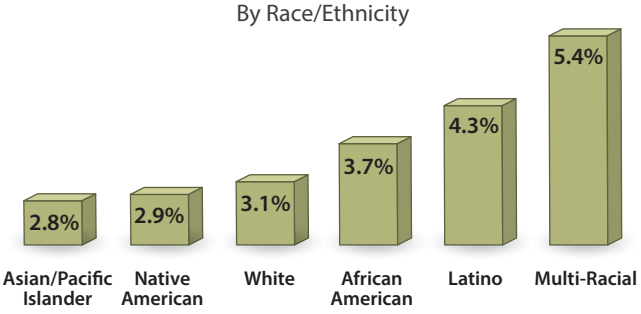
LGBT v. Non-LGBT Respondents



Source: Gates, Gary J. and Frank Newport. "Special Report: 3.4% of U.S. Adults Identify as LGBT." *Gallup Politics*. October 18, 2012. http://www.gallup.com/poll/158066/special-report-adults-identify-lgbt.aspx.

Percent of People Who Identify as LGBT

By Race/Ethnicity



Source: Analysis by Angeliki Kastanis and Gary J. Gates. *The Williams Institute*; Kastanis, Angeliki and Gary J. Gates. "LGBT Asian and Pacific Islander Individuals and Same-Sex Couples." *The Williams Institute*. September 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-2010-API-Final.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT African-American Individuals and African-American Same-Sex Couples." *The Williams Institute*. 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-AFAMER-Oct-2013.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT Latino/a Individuals and Latino/a Same-Sex Couples." *The Williams Institute*. 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-2010-Latino-Final.pdf.

[a] For an in-depth look at the experiences of LGBT workers generally, see the 2013 report "A Broken Bargain: Discrimination, Fewer Benefits and More Taxes for LGBT Workers." www.lgbtmap.org/lgbt-workers.

Key Terms

- **Lesbian, gay, bisexual and transgender (LGBT).** The terms *lesbian*, *gay* and *bisexual* describe a person's sexual orientation and collectively include women and men who are predominantly or sometimes attracted to individuals of the same sex. The term *transgender* is independent of sexual orientation and describes those whose gender identity (the sense of gender that every person feels inside) and/or gender expression (their behavior, clothing, haircut, voice and body characteristics) is different from the sex that was assigned to them at birth. At some point in their lives, many transgender people decide they must live their lives as the gender they have always known themselves to be, and often transition to living as that gender.
- **LGBT workers and LGBT employees.** This report uses the term *LGBT workers* to include all current and potential working-age lesbian, gay, bisexual or transgender members of the American workforce. The more specific term "employees" is used when referencing workers in the context of an employee-employer relationship, such as when discussing employer-sponsored health benefits or employer-provided leave.
- **People of color or workers of color.** Whenever possible, this report provides detailed information about the experiences of African American, Latino, Asian/Pacific Islander, Native American, and other non-white people in the U.S. In some cases, however, the report uses the terms *people of color* or *workers of color* to refer broadly to racial and ethnic groups often referred to as "minorities." This term is not meant to suggest singular experience, but rather to signal that the report is discussing individuals who are not white.
- **Race and ethnicity.** *Race* is a socially created category based primarily on physical appearance that is deeply rooted in historical and political forces. This report provides details about the experiences of people who may identify as, or be externally categorized as African American, black, Asian/Pacific Islander, and/or Native American. Individuals can identify as more than one race. *Ethnicity*, on the other hand, is a cultural group often based on a common national heritage or other shared cultural characteristics. Ethnicity may be related to, but is distinct from, race. This report also focuses on the experiences of people who are ethnically Latino or Hispanic.
- **African American or black.** This report uses the term *black* to describe people who identify with or are externally categorized as being of African descent. In some cases, this report uses the term *African American* as well, although only when that is the term used in the data that we are citing.
- **Latino/a or Hispanic.** This report uses the term *Latino* to refer to individuals who are from or whose family is from Latin American countries. When referring only to women, we use the term *Latina*, whereas we use *Latino* when discussing Latino men and women. Note that this ethnicity is independent of race. In some cases, when citing data we use the terms used in the analysis, which may include the term *Hispanic*, a category that is usually referring to individuals who are from or whose family is from a Spanish-speaking country.
- **Asian or Asian/Pacific Islander.** This report uses these terms to refer to individuals who are from or whose family is from any country in the Asian continent and sub-continent or the islands of the Pacific Rim. The U.S. Census Bureau allows individuals to identify as a particular race, such as Chinese, Filipino, Korean, or Japanese, but the categories of Asian and Pacific Islander often are combined in data analysis. Except where explicitly noted, this is the case in this report as well.
- **Same-sex partner(s) and spouse(s).** Since most same-sex couples cannot legally marry, this report often uses the term *same-sex partner(s)* to refer to same-sex couples in committed relationships, including marriages, domestic partnerships, civil unions and relationships in states where same-sex couples are denied any form of legal recognition. When applicable, the report uses the term *same-sex spouse(s)* to identify those individuals in same-sex couples who are legally married at the state level.[b]

[b] As noted throughout the report, currently the federal government recognizes the legal marriages of some same-sex couples for various programs and benefits. In some cases, marriages are recognized if they are valid in the "place of celebration," meaning that if a couple was legally married in a state or country with marriage equality, regardless of whether they live in a state that recognizes their marriage, they are considered married by the federal government. Other programs rely on the "place of residence" definition, meaning that if a couple was legally married in a state or country with marriage equality, they are considered married by the federal government only if they continue to live in a state or country that recognizes their marriage.

Key Terms (continued)

- **LGBT families.** This report uses the term *LGBT families* interchangeably to refer to same-sex couples who may or may not be raising children, or families in which a single LGBT adult is raising children. We use this term for simplicity. Our more restrictive use of the term *LGBT families* is not meant in any way to diminish bisexual or transgender people with an opposite-sex partner or spouse, nor those who live in family structures that include other family members, close friends and loved ones who provide support.
- **Legal parents and non-legally recognized parents.** We use the terms *legal parent* or *legally recognized parent* to refer to a person who is recognized as a parent under state (and sometimes federal) law, and who is generally related in some manner by blood, adoption or other legal tie to a child. There are many instances in which someone acts as a parent to a child but is not recognized as a legal parent under state (and sometimes federal) law. Throughout the report, we distinguish between the terms *legally recognized parents* and *non-legally recognized parents*. Also used in this report is the term *legal stranger* to refer to a parent who is not legally recognized.

Note: Throughout this report, we use the third-person pronouns "he" and "she" interchangeably to refer to individual LGBT and non-LGBT workers.

immigrants in the U.S.;[1] an estimated 32,300 binational same-sex couples (couples where one member is not an American citizen); and 11,700 same-sex couples where both members are not American citizens.[2] Many of these immigrants are Latino or Asian.

In all, MAP estimates that there are 5.4 million LGBT workers in the United States, of which 1.8 million are workers of color.[c,3] The number of LGBT workers of color is expected to grow in the coming years for two main reasons. First, workers of color are expected to increase their labor force participation numbers at faster rates than white workers; Latino workers alone are expected to make up 19% of the workforce in 2020 vs. 15% in 2010.[4] In addition, larger percentages of young people identify as LGBT, so employers can expect to see greater numbers of openly LGBT workers in the coming years.

Where LGBT Workers of Color Live

Despite the common assumption that LGBT people predominantly live in major metropolitan areas or in states with policies favorable to LGBT people, data from the Census tell a story of a population that is geographically dispersed throughout the country. The same is true for LGBT people of color. In fact, people of color in same-sex relationships are less likely to live in predominantly "gay" areas than in places that are home to people of the same race and ethnicity.

Census data show that the geographic distribution of LGBT people of color closely tracks that of larger racial and ethnic groups. For example, nearly one-third of Hispanic same-sex couples live in New Mexico, California and Texas,[5] as does 48% of the broader Hispanic population.[6] Just over half (51%) of Asian people in the U.S. live in Hawaii, New York, or California as do 29% of Asian same-sex couples.[7] More than one-quarter of black same-sex couples live in Georgia, New York, Maryland and North Carolina,[8] and these states are home to 26% of the broader black population in the U.S.[9]

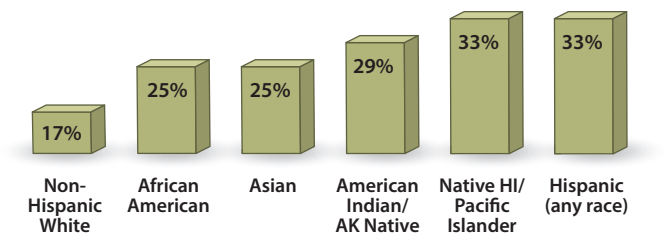
LGBT Workers of Color with Children

Data from the 2010 Census show that LGBT people of color are more likely to be raising children than white LGBT people (see *Figure 2* on the next page). In addition, couples of color make up a slightly higher proportion of same-sex couples raising children than of married opposite-sex couples raising children (39% versus 36%).[10] As shown in *Figure 3* on the next page, the percentage of transgender people of color who are parents is similar to the percentage of white transgender people who are parents. In the largest survey of transgender Americans to date, nearly half of Native American respondents identified as parents (45%), compared to 40% of Latino and white respondents and 36% of black respondents.

A recent MAP analysis of three different data sources suggests that between 2.0 and 2.8 million American

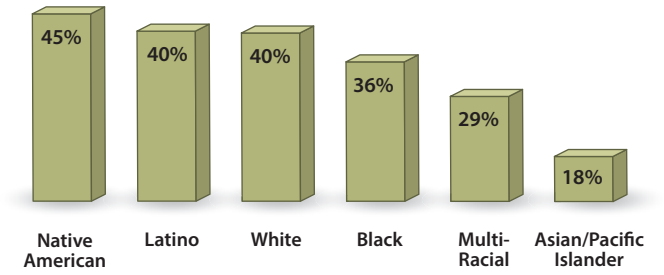
[c] Recent studies conclude that approximately 3.8% of the adult population of the U.S. identifies as LGBT. Applying this figure to the number of Americans who are of "working age" (between 20 and 64) we estimate that there are nearly 7 million LGBT people of working age. Given that 77% of working-age people are in the labor force, we estimate that there are approximately 5.4 million LGBT people in the labor force. We then apply the rate of 33% of LGBT people who identify as people of color to estimate that 1.8 million workers are LGBT people of color.

Figure 2: Percent of Same-Sex Couples Raising "Own" Children
By Race/Ethnicity of Householder



Source: Gates, Gary J. "Same-sex Couples in Census 2010: Race and Ethnicity." *The Williams Institute*. April 2012. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-CouplesRaceEthnicity-April-2012.pdf.

Figure 3: Percent of Transgender Americans Who Are Parents
By Race/Ethnicity



Source: Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice At Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011. http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

children are being raised by LGBT parents. Assuming that 39% of these children are being raised by same-sex couples of color, an estimated 780,000 to 1.1 million children are being raised by LGBT people of color.[11]

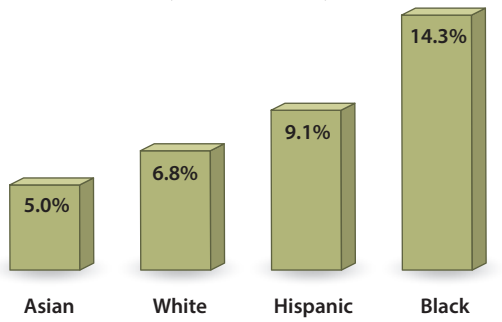
Unfortunately, despite their high likelihood of raising children, LGBT workers of color are also quite likely to lack legal ties to their children. When a same-sex couple raises a child, at least one parent is not a biological parent—and state laws often make it impossible for two parents of the same sex to both create legal ties to their children.[d] Additionally, children of color are disproportionately likely to be raised by someone other than a legal parent, such as an aunt or grandparent, with whom they may not have a legal relationship. Of all children in the U.S. living with someone other than a legal parent, 30% are African American and 25% are Latino.[12] The lack of legal ties means that LGBT workers and their families may be unable to access workplace benefits such as health insurance or medical leave. As described on page 44 of this report, many workplace benefits require legal ties between a worker and his family, legal recognition that is often unobtainable for many LGBT workers.

Unemployment Rates for LGBT Workers of Color

There is growing evidence that unemployment and underemployment are serious concerns for LGBT people of color. Men, on average, have higher rates of unemployment than women, and the same trend is true for LGBT workers and workers of color. For example, in a survey of black LGBT people, when asked to list the most important issue in their lives, economic issues topped the list (22% said it was the most important issue).[13] This reflects general population numbers that show the unemployment rate for African Americans is twice as high as it is for white Americans, while the unemployment rate for Latino people is one-third greater than for white people (see *Figure 4*).

New data show that LGBT people of color have higher rates of unemployment compared to non-LGBT people of color (see *Figure 5* on the next page). However, concern about unemployment and underemployment may be most pronounced among transgender workers. The National Transgender Discrimination Survey found that although transgender workers are more highly educated than the general population,

Figure 4: Unemployment Rates for All Adults
By Race /Ethnicity



Source: U.S. Department of Labor. Bureau of Labor Statistics. "Table A-2. Employment status of the civilian population by race, sex, and age." June 2013. http://www.bls.gov/webapps/legacy/cpsatab2.htm.

[d] In many states it is difficult for LGBT parents to create legal ties to the children they are raising. Some parenting rights flow from or are tied to marriage, and in 34 states, same-sex couples cannot legally marry. Additionally, many states have laws that make it virtually impossible for LGBT parents to adopt children they are raising through second-parent adoption, joint adoption, or stepparent adoption. For more about the barriers to establishing legal ties for LGBT parents, see Movement Advancement Project, Family Equality Council and Center for American Progress. "All Children Matter." 2011. http://lgbtmap.org/lgbt-families (accessed September 11, 2013).

their unemployment rate at the time the survey was fielded was twice the rate of the population as a whole (14% versus 7%).[14] Rate for transgender people of color reached as high as four times the national unemployment rate at the time of the survey (see *Figure 6*), with black transgender people experiencing unemployment at a rate of almost two-and-a-half times that of white transgender people (28% versus 12%).[15]

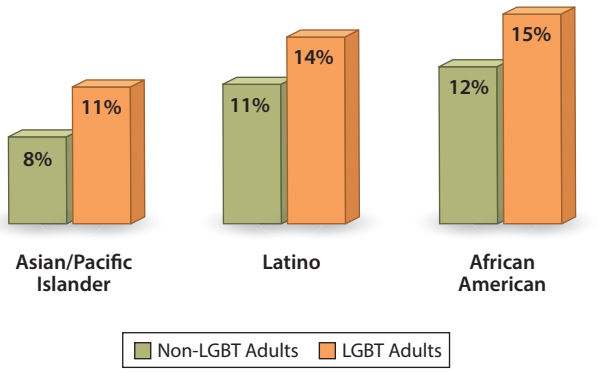
Poverty Rates for LGBT Workers of Color

In 2011, 46 million people (or 15% of Americans) were living at or below the poverty line.[16] Research shows that LGBT people of color, and particularly black LGBT people, are at a much higher risk of poverty than non-LGBT people (see *Figures 7* and *8*). For example, as shown in Figures 7 and 8:

- Black people in same-sex couples have poverty rates at least twice the rate of black people in opposite-sex married couples (18% vs. 8%).[17]
- Black men in same-sex couples are more than six times more likely to be poor than white men in same-sex couples (19% vs. 3%); and black women in same-sex couples are more than three times more likely to be poor than white women in same-sex couples (18% vs. 6%).[18]

Figure 5: Unemployment Rates

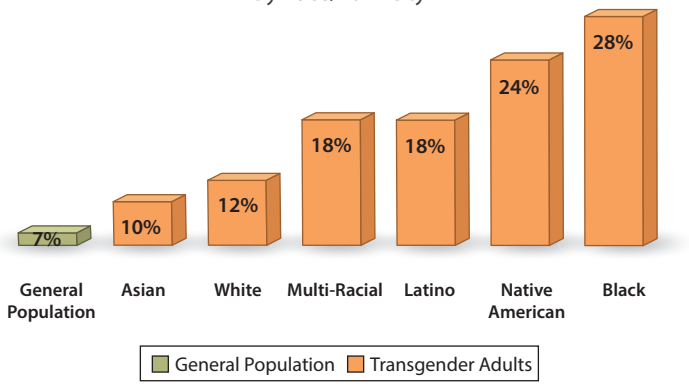
By Sexual Orientation/Gender Identity and Race/Ethnicity



Source: Kastanis, Angeliki and Gary J. Gates. "LGBT Asian and Pacific Islander Individuals and Same-Sex Couples." The Williams Institute. September 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-2010-API-Final.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT African-American Individuals and African-American Same-Sex Couples." The Williams Institute. October 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-AFAMER-Oct-2013.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT Latino/a Individuals and Latino/a Same-Sex Couples." The Williams Institute. October 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-2010-Latino-Final.pdf.

Figure 6: Unemployment Rates for Transgender Adults

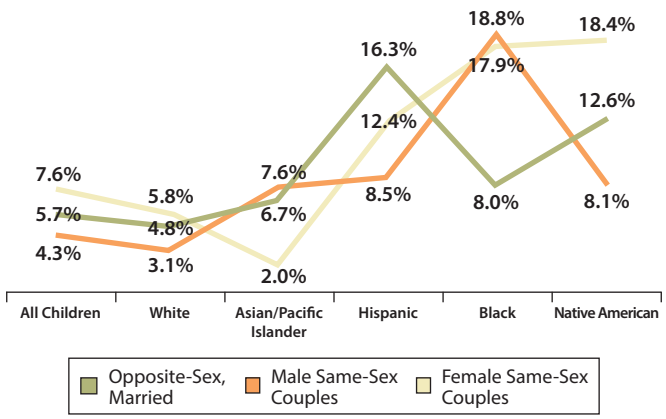
By Race/Ethnicity



Source: Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice At Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011. http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

Figure 7: Percent of Adults Living in Poverty

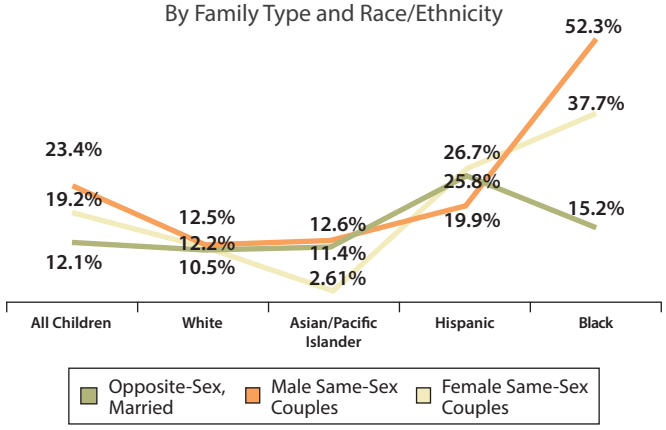
By Family Type and Race/Ethnicity



Source: Badgett, M.V.Lee, Laura E. Durso, and Alyssa Schneebaum. "New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community." *The Williams Institute*. June 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf.

Figure 8: Percent of Children Living in Poverty

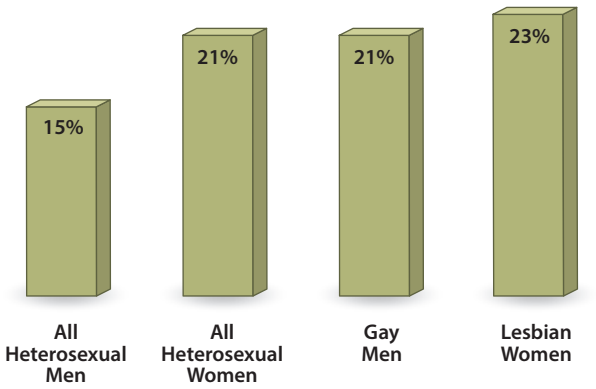
By Family Type and Race/Ethnicity



Source: Badgett, M.V.Lee, Laura E. Durso, and Alyssa Schneebaum. "New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community." *The Williams Institute*. June 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf.

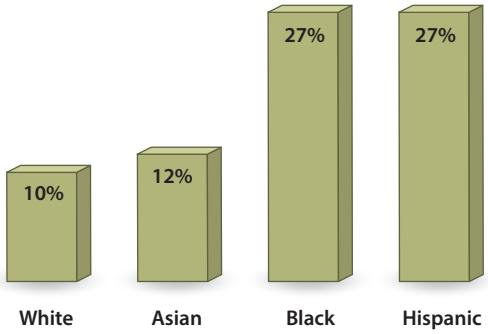
- Children raised by black parents in same-sex couples have extremely high poverty rates: 52% for those with gay male parents, and 38% for those living with lesbian parents, compared to 11% for those with white, opposite-sex parents and 15% for those living with black parents in opposite-sex couples.[19]
- Of Hispanic people in same-sex couples, 9% of male couples and 12% of female couples are poor, compared to 5% of white opposite-sex couples. Among same-sex Hispanic couples with children, the poverty rate climbs to 20% for male couples and 27% for female couples, compared to 11% for white opposite-sex couples raising children.

Figure 9: Percent of Adults Living in Poverty
By Sexual Orientation



Source: Badgett, M.V. Lee, Laura E. Durso, and Alyssa Schneebaum. "New Patterns of Poverty in the Lesbian, Gay, and Bisexual Community." *The Williams Institute*. June 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGB-Poverty-Update-Jun-2013.pdf.

Figure 10: Percent of Adults Living in Poverty
By Race/Ethnicity



Source: Institute for Research on Poverty. "Who is poor?" http://www.irp.wisc.edu/faqs/faq3.htm.

- Latino transgender people often live in extreme poverty, with 28% reporting a household income of less than $10,000/year. This is nearly double the rate of extreme poverty among transgender people of all races (15%), over five times the general Latino population rate (5%), and seven times the general U.S. population rate (4%). The extreme poverty rate for Latino non-citizens is 43%.[20]

The poverty data for LGBT workers of color mirror broader societal trends for both LGBT people and people of color. Across the U.S. population, LGBT people are more likely to be poor than those who are not LGBT. Twenty-one percent of gay men and 23% of lesbian women are poor, compared to 15% of heterosexual men and 21% of heterosexual women (see *Figure 9*).[21] Similarly, rates of poverty are much higher for people of color than white people–as of 2010, 27% of black people were living in poverty, as were 27% of Hispanic people, compared to 10 percent of white people (see *Figure 10*). Rates of poverty for Asians were more comparable to those of white Americans—at 12%.[22]

These higher poverty rates among LGBT workers of color should come as no surprise given the challenges explored in this report, including job discrimination, unequal access to worker and family benefits, and higher tax burdens.

Obstacles to Good Jobs for LGBT Workers of Color

This report examines how LGBT workers of color face unique challenges related to their race and ethnicity and their sexual orientation and/or gender identity (see the infographic on the next page). Specifically:

- **SECTION 1** examines how LGBT people of color experience **unequal educational opportunities and barriers to education** that can make it hard to compete for jobs and to ensure economic security.
- **SECTION 2** explores **hiring bias and on-the-job discrimination** experienced by LGBT people of color that can make finding and keeping a good job more difficult.
- **SECTION 3** discusses how LGBT workers of color are more likely to work low-wage jobs, and receive **unequal pay, benefits and taxation**, leaving them with less to care for themselves and their families.

A BROKEN BARGAIN
FOR LGBT WORKERS OF COLOR

THE PROBLEMS

EDUCATIONAL BARRIERS



- Unsafe K-12 schools
- Under-resourced schools
- School-to-prison pipeline
- Barriers to higher education

HIRING BIAS AND ON-THE-JOB DISCRIMINATION



- Unwarranted background checks
- Hiring bias and on-the-job discrimination
- Inadequate nondiscrimination laws
- Lack of mentorship and on-the-job support
- Lack of legal work authorization

UNEQUAL PAY, BENEFITS, AND TAXATION



- Wage gaps and penalties
- Lack of job-related benefits
- Higher tax burdens

THE IMPACT

LESS PREPARED TO COMPETE FOR GOOD JOBS

HARDER TO FIND AND KEEP GOOD JOBS

FEWER RESOURCES TO PROVIDE FOR ONESELF AND FAMILY

OBSTACLE #1: EDUCATIONAL BARRIERS

A quality education is a key predictor of one's ability to find an economically sustainable job. Individuals lacking a high school diploma, on average, earn $7,840 less per year than high school graduates and a staggering $27,390 less than college graduates.[25] Additionally, workers lacking a quality education are less likely to find jobs that offer health insurance[26] and are at greater risk for unemployment, particularly during recessions.[27] Even more dire outcomes face individuals who leave or are pushed out of the education system in the U.S. before finishing high school, including higher rates of incarceration and homelessness.[28]

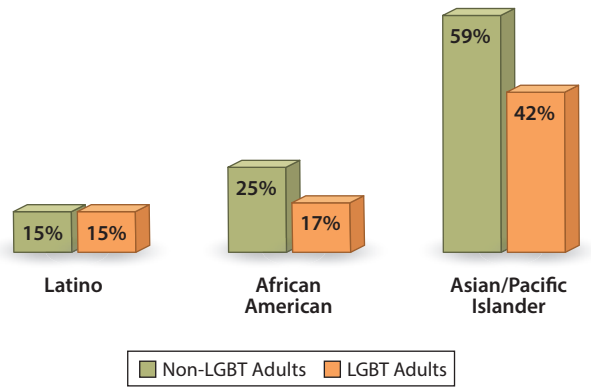
Despite widespread recognition of the connection between education and the ability to compete for the nation's best jobs, substantial and systemic barriers keep millions of American children from obtaining a safe, quality education. Among the children who often fall through the cracks of the U.S. educational system are LGBT youth of color. For these students, the barriers of race, sexual orientation and gender identity/expression can collide in unique ways that make obtaining an education in a safe, supportive environment incredibly challenging.

As shown in the infographic on the next page, one of the key barriers to education for LGBT youth of color is that schools often fail to provide a safe learning environment that is free from bullying, harassment and violence. Additionally, schools are often under-resourced and unable to provide LGBT students of color with programs and services to meet their educational, emotional and social development needs. Finally, LGBT youth of color face a range of barriers to pursuing higher education, including a lack of financial resources as well as insufficient support from family, peers and others to ensure graduation from college.

Disparities in Educational Attainment

Children and young adults thrive in schools when they have safe, healthy and supportive learning environments and strong parent, peer, teacher and community support. Additionally, parents and students rely on schools to offer relevant, appropriate and high-quality educational programs and services that help students progress through school and prepare them for college and sustainable employment. Students succeed in settings where they can stretch their abilities, find opportunities to develop as leaders, and are recognized for their efforts and successes. Success in school is directly related to finding and keeping jobs that can support a family.

Figure 11: College Completion Rates
By Sexual Orientation and Gender Identity and Race/Ethnicity



Source: Kastanis, Angeliki and Gary J. Gates. "LGBT Asian and Pacific Islander Individuals and Same-Sex Couples." The Williams Institute. September 2013. http://williamsinstitute.law.ucla. edu/wp-content/uploads/Census-2010-API-Final.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT African-American Individuals and African-American Same-Sex Couples." *The Williams Institute*. 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-AFAMER-Oct-2013.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT Latino/a Individuals and Latino/a Same-Sex Couples." The Williams Institute. 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-2010-Latino-Final.pdf.

Research shows that schools are failing many LGBT people of color. Data from Gallup and the Census finds that many LGBT people have lower rates of college completion than their non-LGBT peers (see *Figure 11*). Similarly, in the largest survey of transgender and gender-nonconforming people in the United States, transgender people of color generally reported lower educational attainment than white transgender people (see *Figure 12* on page 10).

These data mirror broader societal trends showing educational attainment disparities for people of color. Research, for example, shows that people of color are less likely to have a college degree than are white workers (as shown in Figure 12 on page 10).[e]

[e] While Asian/Pacific Islanders in the U.S. are more likely to have a college degree than white people, there is diversity within the Asian community that is sometimes masked in data analysis. For example, nearly three out of five employed Asians in 2010 had earned a bachelor's degree—60% greater than white people and more than double and triple the proportions of black and Latino workers. However, within Asian communities in the U.S., Vietnamese workers are among the least likely to have a college degree, while three-quarters of Indian workers had college degrees, and three-fifths of Chinese, Filipino, Japanese, and Korean workers had degrees. According to one study, Pacific Islander and Southeast Asian Americans who are 25 years or older are among the least likely to have finished high school of any Americans. Similarly, Native Americans are less likely to earn a bachelor's or advanced degree than their nonindigenous peers. Correspondingly, student data indicate that Native American students continue to have the lowest matriculation rates and the second highest dropout rates of all students in the country.

EDUCATIONAL BARRIERS

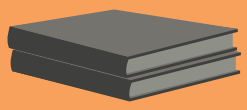
LEAVE LGBT WORKERS OF COLOR LESS PREPARED TO COMPETE FOR GOOD JOBS

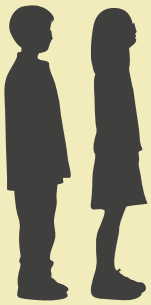
BARRIERS

UNSAFE K-12 SCHOOLS

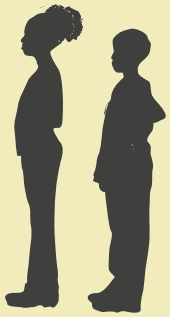


UNDER-RESOURCED SCHOOLS









BARRIERS TO HIGHER EDUCATION



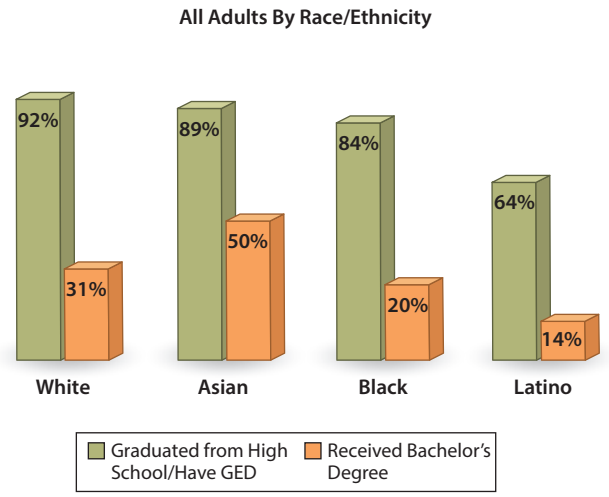
SCHOOL-TO-PRISON PIPELINE



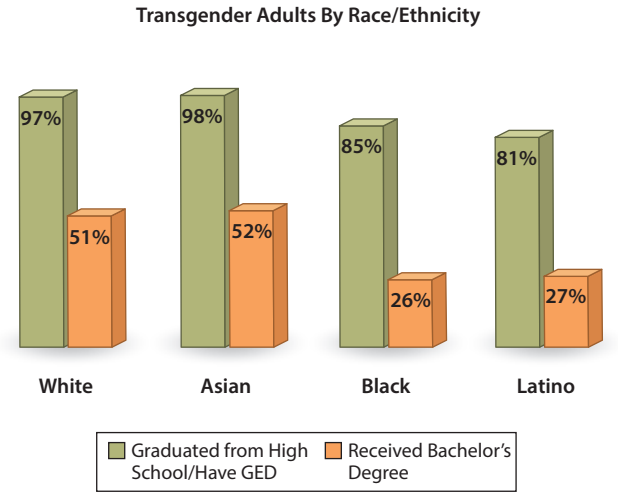
SOLUTIONS

- CREATE SAFERS SCHOOLS
- ENSURE ALL SCHOOLS HAVE ADEQUATE RESOURCES
- FIX SCHOOL-TO-PRISON PIPELINE
- SUPPORT YOUTH OF COLOR PURSUING HIGHER EDUCATION

Figure 12: Educational Attainment



Source: 2011 Current Population Survey, http://www.census.gov/hhes/socdemo/education/data/cps/2011/tables.html.



Source: Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. Injustice At Every Turn: A Report of the National Transgender Discrimination Survey. Washington: *National Center for Transgender Equality and National Gay and Lesbian Task Force*, 2011. http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

However, the research on educational attainment among LGBT people of color does not conform with data showing higher levels of education among LGBT people more broadly. Census data, for example, show a higher probability that individuals in same-sex couples have at least a bachelor's degree, compared to their counterparts in opposite-sex couples (46% versus 34%).[29] Similarly, the National Transgender Discrimination Survey found that transgender respondents had much higher levels of educational attainment than the population as a whole; 47% of respondents reported that they had obtained a college or graduate degree compared to 27% of the general population.[30] This suggests that race and ethnicity may have more influence on the relatively low levels of educational attainment among LGBT people of color than sexual orientation or gender identity/expression, although LGBT people face unique and considerable challenges in the U.S. educational system, as we explore below.

Unsafe Schools

Schools should be places where students feel safe and secure so they can focus on learning and growing. Yet for many children in the U.S., schools are places where they must not only worry about math tests and music classes but also about whether they will be physically, verbally or socially harassed or harmed—what is generally called "bullying." The cumulative impact of bullying and harassment at school also can have a long-term effect on later job opportunities as LGBT youth of color may be less prepared to compete for good jobs because they lack the required education.

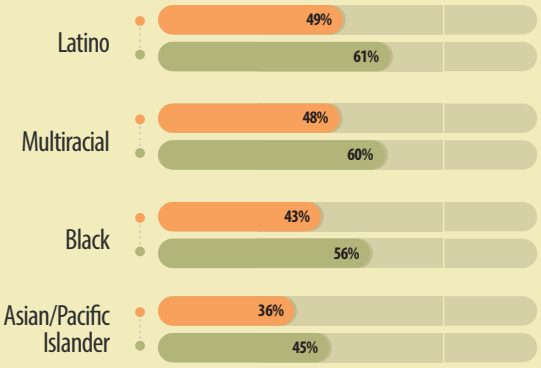
Children may be bullied for any real or perceived difference, but a recent survey of teachers found that the most common bullying centered on a student's weight, gender, perceived sexual orientation, or disability.[31] LGBT youth of color may face multiple forms of harassment and bullying at school—based on their sexual orientation or gender identity *and* their race or ethnicity. A 2007 study found that nearly half (48%) of LGBT students of color experienced verbal harassment because of both their sexual orientation and their race or ethnicity, and 15% had been physically harassed or assaulted based on both of these aspects of their identity.[32]

Reducing bullying and making schools safer for all students will create better, more equal educational experiences and outcomes for LGBT youth of color. More than 50% of African American, Latino, Asian/Pacific Islander and multiracial LGBT students said they experienced verbal harassment at school in the past year because of their race or ethnicity.[33] As shown in the infographic on the next page, experiences of harassment and violence based on perceived or real sexual orientation and gender identity are even higher.

IMPACT OF UNSAFE SCHOOLS

LGBT STUDENTS OF COLOR REPORT HIGH RATES OF HARASSMENT AT SCHOOL

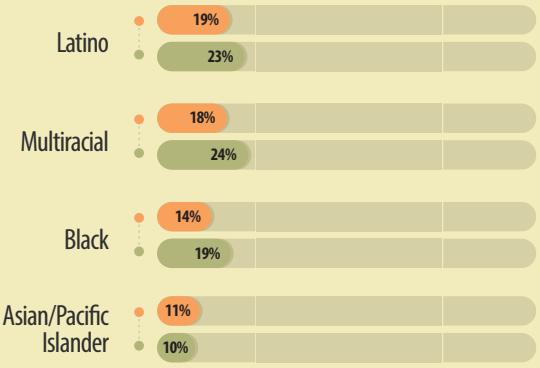
VERBAL HARASSMENT
(REPORTED BY LGBT YOUTH OF COLOR)



Harassment based on gender identity/expression

Harassment based on sexual orientation

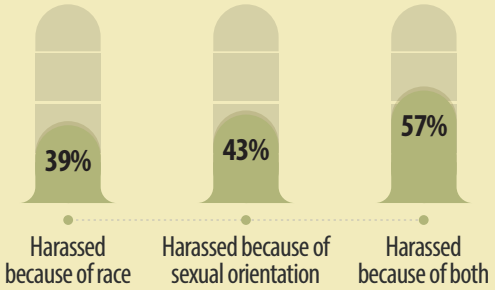
PHYSICAL HARASSMENT
(REPORTED BY LGBT YOUTH OF COLOR)



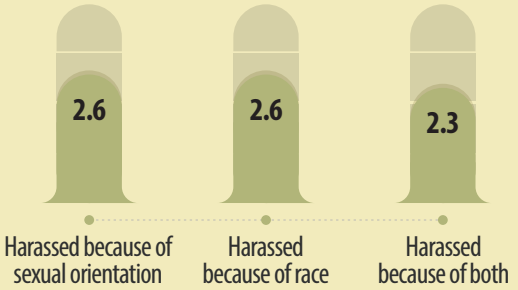
SOURCE: KOSCIW, JOSEPH G., EMILY A. GREYTAK, MARK J. BARTKIEWICZ, MADELYN J. BOESEN, AND NEAL A. PALMER. "THE 2011 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL AND TRANSGENDER YOUTH IN OUR NATION'S SCHOOLS." GLSEN. 2012.

RESULTING IN POOR EDUCATIONAL OUTCOMES AND LOWER SELF-ESTEEM, POOR MENTAL HEALTH, AND ENGAGEMENT IN RISKY SEX BEHAVIORS

SKIPPED SCHOOL IN LAST MONTH
(REPORTED BY LGBT YOUTH OF COLOR)

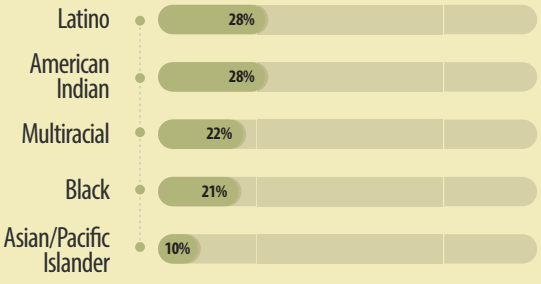


GRADE POINT AVERAGE (GPA)
(REPORTED BY LGBT YOUTH OF COLOR)



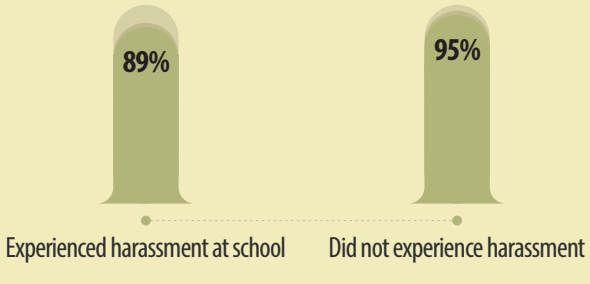
SOURCE: DIAZ, ELIZABETH M. AND JOSEPH G. KOSCIW. "SHARED DIFFERENCES: THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER STUDENTS OF COLOR IN OUR NATION'S SCHOOLS." GLSEN. 2009.

DROPPED OUT BECAUSE OF HARASSMENT
(REPORTED BY TRANSGENDER ADULTS)



SOURCE: GRANT, JAIME M., LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, AND MARA KEISLING. "INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY." *NATIONAL CENTER FOR TRANSGENDER EQUALITY AND NATIONAL GAY AND LESBIAN TASK FORCE*. 2011.

ASPIRE TO ATTEND COLLEGE
(REPORTED BY LGBT YOUTH OF COLOR)



SOURCE: KOSCIW, JOSEPH G., EMILY A. GREYTAK, MARK J. BARTKIEWICZ, MADELYN J. BOESEN, AND NEAL A. PALMER. "THE 2011 NATIONAL SCHOOL CLIMATE SURVEY: THE EXPERIENCES OF LESBIAN, GAY, BISEXUAL AND TRANSGENDER YOUTH IN OUR NATION'S SCHOOLS." GLSEN. 2012.

LEADING TO REDUCED JOB READINESS AND ABILITY TO COMPETE FOR GOOD JOBS

Marvin's Story: Harassed and Isolated at School



When seventh grade began and I was 12 years old, I was very much aware that I was gay. In middle school, boys always said to each other, "Stop acting gay" or "You're such a fag." I wished I could be an average teenager who worried about girls, cars and sports. Instead, I worried about people finding out who I really was.

I couldn't talk to my friends, and I was failing my classes. I never did any homework, or even went to school. What did I care if I passed my classes or not? The world was disgusted by me, my parents ignored me and even God looked down on me.

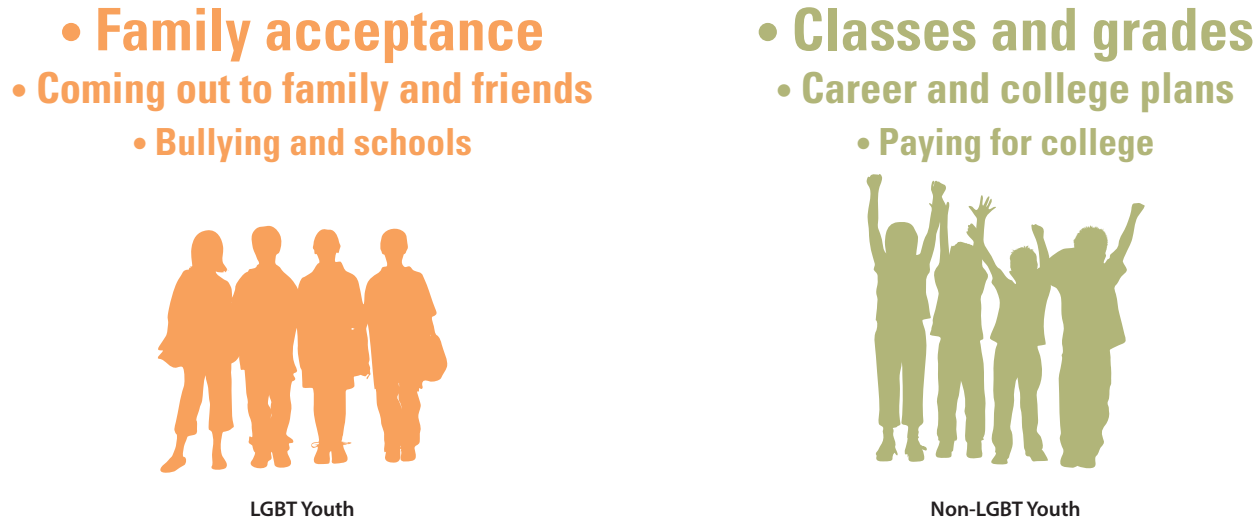
Toward the end of the year, I got in an argument with a teacher and was kicked out of middle school. That meant I had to go to a new school where I knew hardly anyone and the school motto should have been "No fags allowed." After the first week, people were already yelling, "Look! That guy's a queer!" One day, a boy tripped me in P.E. My skin ripped as I slid on the concrete, knees first. My P.E. teacher noticed my bleeding knees but I told him I fell by accident. I already had enough people who hated me; the last thing I needed was more people harassing me.

In high school, I promised myself that I would stay in the shadows, unnoticed and safe. However, I was immediately singled out. The second I spoke, with my high-pitched voice, everyone knew. When we had to do readings in history class, the football players were unbelievably cruel. It continued for the rest of the semester. I was the target of rubber bands, paper balls and spitballs. Sometimes I found my books tagged up with the word "FAGGOT" in bold letters. Through it all, I thought it was my fault.

At the beginning of the second semester of my 10th-grade year, I had a 1.6 GPA and I was on the verge of transferring to another school. A concerned teacher helped me join a special program at my high schol called the Transportation Academy, as a last-ditch effort to save me. The Transportation Academy, where we study transportation planning along with architecture, politics and community issues, didn't have a grade requirement, so I could start off with a clean slate. I knew everyone in my classes, and they were nice. They never picked on me, and I decided I would risk being openly gay.

Source: Adapted from Marvin Novelo. "Gay and so alone." *L.A. Youth*. October 2004. http://www.layouth.com/gay-and-so-alone/ (accessed September 26, 2013).

Figure 13: Top Concerns Reported by Youth
By Sexual Orientation and Gender Identity



Harassment and violence have serious consequences for LGBT youth of color, including physical, emotional and mental health impacts,[34] poorer educational outcomes and, ultimately, reduced job readiness. When LGBT students of color feel unsafe at school, they are more likely to skip class or stay home.[f,35] This, in turn, can make it more of a struggle for LGBT students of color to perform academically, when compared to their peers. LGBT youth report that their top concerns are non-accepting families, bullying and other school problems, and concerns about coming out or disclosing their sexual orientation or gender identity to their family and friends. Non-LGBT youth, on the other hand, say they are worried about their classes and grades, career and college plans, and the financial aspects of college (see *Figure 13* on the previous page).[36]

For some LGBT students of color, extreme harassment and violence may mean that school is no longer a safe place and they are forced to leave school altogether.[g,37] The Ruth Ellis Center, an organization that exclusively serves LGBT youth in Detroit, reported in 2006 that more than 60% of the high school-age population it serves had dropped out due to bullying or discrimination.[38] Long-term effects of unsafe schools can be serious; for example, 32% of transgender people who were physically assaulted at school indicated that they had done sex work or other work in the "underground" economy, compared to just 14% of those who had not experienced harassment and violence at school.[39]

Under-Resourced Schools

There is little data about the specific educational experiences of LGBT students of color. However, the U.S. school financing system, which relies in large part on local property taxes, has resulted in great disparities in the educational resources available within different communities. Poor and lower-income communities are particularly hard hit. The result is that many students of color attend schools that are vastly under-resourced compared to those attended by white students (as shown in *Figure 14* on the next page). When students of color attend schools with limited resources, quality of education suffers, which means that students are less qualified to compete for good jobs.

In general, schools that have large numbers of minority students are less likely to provide educational experiences that are proven to prepare students for good jobs and/or college. In fact, students of color make up three-quarters of the enrollment at the lowest-performing

LGBT Youth of Color Face Increased Risk of Homelessness

Homelessness can threaten the educational outcomes and life chances of all young people — and research shows that LGBT youth of color are at special risk. An estimated 20-40% of homeless youth in the U.S. identify as LGBT or believe they may be LGBT.[40] These numbers are shockingly high given current estimates suggesting that roughly 5-6% of youth in the U.S. identify as LGBT. Research also shows that African American and Native American young people are over-represented among LGBT homeless youth, as well as the broader homeless population.[41] One study found that among homeless youth who identify as gay or lesbian, 44% identified as black and 26% were Latino.[42]

Homelessness among LGBT youth is often the result of family rejection as these young people are forced out of their homes by their parents because of their sexual orientation or gender identity.[43] Among the consequences of homelessness for these young people is difficulty completing school. Even when a young person has a shelter to call "home," only one-third of shelters or agencies serving homeless youth offer GED programs and less than one-third offer vocational training that can help people obtain needed job skills.[44]

Shelters can be particularly difficult for transgender youth to navigate, regardless of race or ethnicity, because they are often segregated by sex. In other words, transgender people may not be allowed to stay in a place that matches their current gender as opposed to their birth sex, which could make them less likely to seek shelter and other assistance.[45]

For LGBT youth of color, being at increased risk of homelessness means that they face substantial challenges such as increased substance use and increased interactions with law enforcement, which later make it much more difficult to enter the mainstream labor force.[46]

[f] More than one-third of Latino, Native American and multiracial LGBT students said that they had missed class at least once in the past month because they felt unsafe at school, as did more than one in four African American and Asian/Pacific Islander LGBT students.

[g] For example, among transgender and gender-noncomforming people, 21% of black and Latino, 19% of American Indian and Alaskan Natives and 11% of Asian/Pacific Islanders left school because of the harassment they experienced.

Figure 14: Schools Fail Students of Color

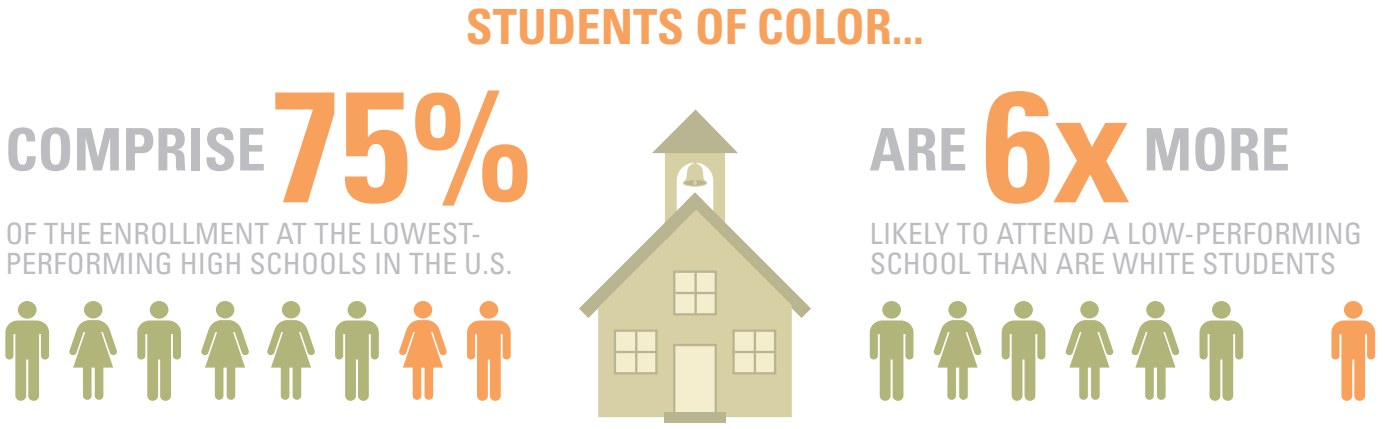
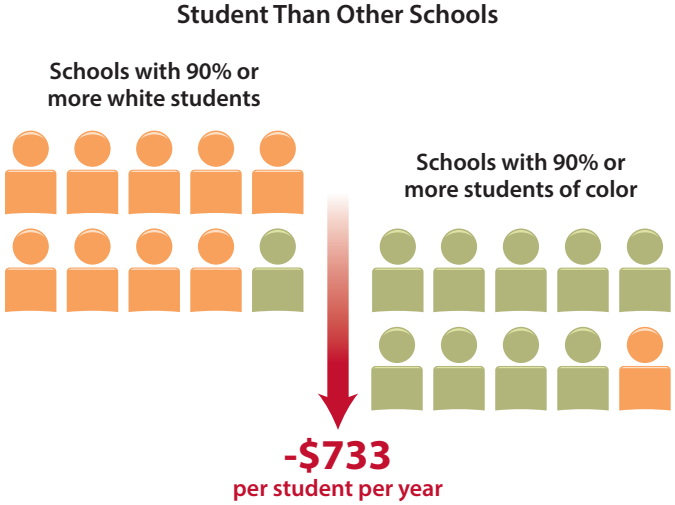
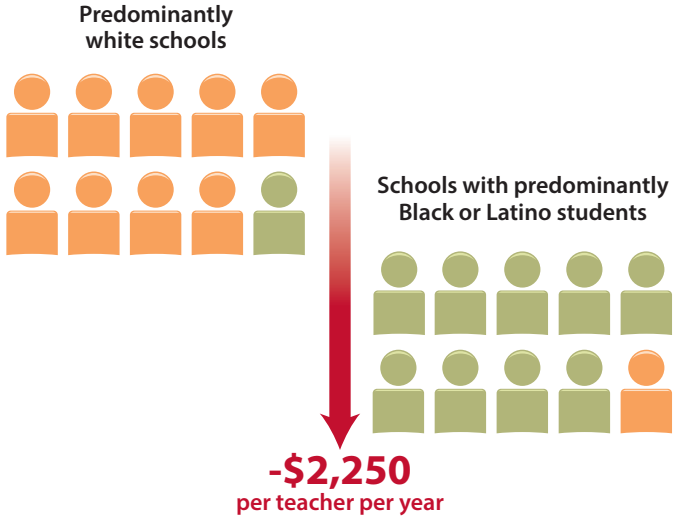


Figure 15: Schools with Substantial Minority Student Populations Spend Less Annually Per Student Than Other Schools



Source: Spatig-Amerikaner, Ary. "Unequal Education: Federal Loophole Enables Lower Spending on Students of Color." *Center for American Progress*. August 2012.

Figure 16: Schools with Substantial Minority Student Populations Pay Teachers Less Annually



Source: Department of Education. "Revealing Truths About Our Nation's Schools." March 12, 2012.

high schools in the U.S., and they are six times more likely to attend such a school than are white students.[47]

Under-resourced schools can be particularly difficult places for LGBT students of color because of the lack of services and support. Specifically, there is a lack of equity for LGBT students of color in the following key areas:

- **Experienced and well-paid teachers:** Teachers at schools serving predominantly students of color are often paid less and have less experience than teachers at schools with larger white student populations, as shown in *Figure 15* and *Figure 16*. This means these teachers are less prepared to help LGBT students of color deal with issues from bullying and harassment to a lack of support at home. Studies consistently find that effective teachers can motivate students to excel both in and out of the classroom. In fact, when all aspects of schooling are assessed according to their impact on a student's performance at school, teachers have been found to matter the most.[48]

- **Supportive staff:** A well-resourced school usually provides adequate staffing, including student counselors, to help students deal with issues they are facing in school. In addition, principals and other administrators in these schools often make themselves available to students to address their needs and concerns. But in under-resourced

schools, staff are usually overstretched, less experienced, and may be less prepared to respond to students' needs. This may be why fewer than half of LGBT students of color tell a teacher or staff member about harassment they face at school—out of fear that it could make the problem worse or that nothing would be done.[49] A 2011 survey showed that LGBT students in schools with identifiable, supportive staff were less likely to miss school in the past month than students in schools without such a staff (22% vs. 51%); they had higher grade point averages (3.2 vs. 2.9); and they had higher educational aspirations about attending college.[50]

- **Gay-Straight Alliances:** Under-resourced schools may be less likely to have student organizations that can support LGBT students, regardless of race. In general, less than half of all LGBT students have access to a gay-straight alliance (GSA) or another organization or club that addresses issues experienced by LGBT students. LGBT students of color are even less likely to have such an organization at their schools; only 36% of LGBT students of color reported that their schools had a club that addressed LGBT issues like a GSA.[51] Yet, research shows that GSAs have a significant positive impact on LGBT students. LGBT students at schools with GSAs heard negative remarks less frequently and were less likely to feel unsafe and less likely to experience severe victimization. Similarly, these students reported higher levels of "school belonging" and were half as likely to report skipping school.

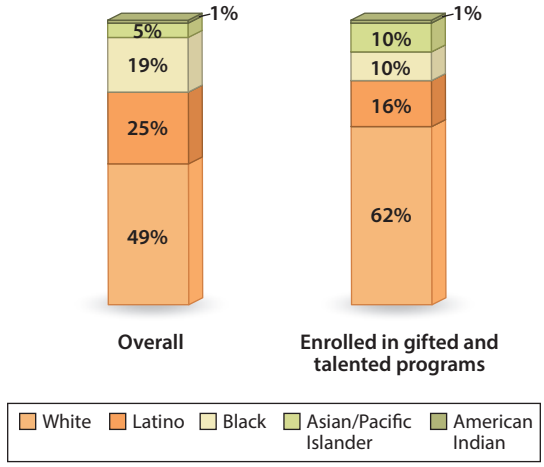
- **Advanced courses:** Schools with more students of color are less likely to offer courses that colleges require or that are designed to prepare students for the rigors of college. For example:

  - A Department of Education study found that only 29% of high-minority enrollment high schools offered calculus, compared to 55% of high schools with low-minority enrollment.[52]

  - Latino and black students are underrepresented in talented and gifted programs across the country (see *Figure 17*).

  - In California, only 30% of high-minority enrollment schools serving black and Latino students offered courses required for admittance to the California State University (CSU) system. This compared to 55% of schools with fewer than half of students identifying as black or Latino.[53]

Figure 17: Students of Color are Underrepresented in Talented & Gifted Programs



Source: Department of Education. "Revealing Truths About Our Nation's Schools." March 12, 2012.

- **Crucial support programs:** Many students need additional assistance to learn a language or succeed in school while also managing a learning disability or other challenges. However, schools serving predominantly students of color often lack resources to provide this assistance. Asian and Pacific Islander and Latino students are the least likely of all students to hear their spoken language at school or to be in a learning environment with significant numbers of other students, faculty and staff who share their race or ethnicity.[54] For Latino students, language barriers can make schooling and education more challenging; nearly half (49%) of Latino youth ages 16-24 said that limited English skills were a primary barrier to continuing their education.[55] Once students are designated as English-language learners or placed into special classrooms for English classes, they continue to fall behind their peers. For example, 51% of 8th-grade English-language learning students were behind white native English-speaking students in reading and math.[56]

In addition, studies have found that youth of color may be disproportionately placed in classrooms designed for students with learning disabilities or other special needs. Once routed into one of these classrooms, students (especially those attending under-resourced schools) rarely meet the achievement levels of their peers and may face challenges graduating from high school and pursuing advanced education either in college or trade schools.

Kristy's Story: Starting a Gay-Straight Alliance at Duarte High School

As a Latina ally, I wanted to make sure my school was a good place for my friends who are LGBT. One day in P.E., some friends and I were talking about how people at school weren't open-minded about sexuality. I brought up the gay-straight alliance (GSA) and explained how it's a great place to stand up for equality, and four of them, two who are also straight allies and two who are bisexual, joined.

The students at my school need to learn the tolerance our GSA promotes. When one guy says to another that he looks good, he feels like he has to immediately say, "No homo." When I hear someone say that, I tell them, "Please don't say that. It's offensive and I'd appreciate it if you didn't say things like that. Thanks." I don't explain to them why it's offensive because I don't think they would listen to me. I know that I may not be able to make them believe in gay rights the way that I do, but I still want them to stop saying hurtful things.

I know that some people think I'm a lesbian because I'm in the GSA and also probably because I hug my female friends and kiss them on the cheek, which is how everyone in my family greets people. But I don't care because I think it's important for people to stand up for what they believe in, regardless of what anyone else might think. When there are class discussions related to same-sex marriage or people's rights, I make sure to say everyone is entitled to equality. I want to help make sure that everyone is accepted because we all deserve it.

Source: Adapted from Kristy Plaza. "Standing up for gay rights." *L.A. Youth*. October 2011. http://www.layouth.com/standing-up-for-gay-rights/ (accessed September 26, 2013).

School-to-Prison Pipeline

Broken educational systems—in which students are unsafe and don't receive the academic, social or developmental support they need—mean that students are not engaged academically and are at greater risk of acting out at school.[57] When youth act out, they in turn risk entering the *school-to-prison pipeline* in which they are suspended, expelled, or otherwise removed from school settings and instead pushed into the juvenile justice and broader correctional systems.[58]

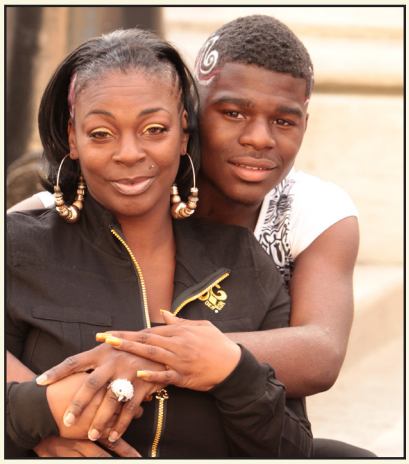
When a student is suspended, expelled or enters the criminal justice system, he or she is less likely to receive the education and job skills needed to compete for good jobs. Once in the workforce, students are at a distinct disadvantage in competing for jobs to the extent that they have a criminal record or past interactions with law enforcement. As discussed in Section 2, background checks have become a routine part of job applications, especially for students of color, which may mean that these students will face increased challenges when applying for jobs.

Despite a decline in school violence over the past 20 years,[59] schools have imposed "zero tolerance" policies through which students face severe punishment for violating a school policy, regardless of the circumstances.[60] As a result, students are more likely to be suspended or expelled from school for both violent and non-violent incidents,[61] leading to further alienation and disconnection from the educational system and an increased likelihood of interaction with law enforcement. Also, many schools now rely on law enforcement to provide disciplinary action within schools rather than letting teachers or administrators make decisions.[62]

LGBT youth of color are at particularly high risk for interaction with law enforcement and school administrators for disciplinary action—in part because they are more likely to be the targets of harassment and violence at school because of their race, sexual orientation or gender identity:

- A 2012 survey of LGBT people conducted by Lambda Legal found that 79% of LGBT youth of color reported that they had interactions with security or law enforcement in their middle or high school years, compared to 63% of white LGBT youth.[63] Among African American LGBT youth, 69% had been sent to detention compared to 56% of non-African American students, and 31% had been suspended, compared to just 18% of non-African American students.[64]
- A study published in *Pediatrics* found that lesbian, gay and bisexual youth were more likely than their peers to report being stopped by the police or to have experienced school expulsion, juvenile arrest and conviction as an adult.[65]
- Similarly, research shows that both youth of color and students of color with disabilities are more likely

Dynasty's Story: Harassment and Expulsion from School



Dynasty Young and his mother, Chelisa Grimes

Dynasty Young is gay, black and gender non-conforming. What happened to him is appalling and shocking.

Dynasty moved to Indianapolis from Arizona in the summer of 2011. From the day he enrolled at Arsenal Technical High School in Indianapolis Public Schools, he endured relentless harassment and bullying by his peers, from verbal taunts to having bottles thrown at him on his way home from school. Over and over again, he and his mother turned to school officials for help, but instead of taking effective steps to address the bullying and harassment, school employees blamed Dynasty for being "too flamboyant" and asked him to "tone it down." As the months went on and the harassment continued, Dynasty's mom watched his emotional and physical health deteriorate. Afraid for her son's safety and not knowing what else to do, she decided to give Dynasty a self-protection flashlight, a small device that emits light, a loud noise and an electric charge, to carry with him while at school.

On April 16, 2012, six students surrounded Dynasty, ready to attack him. Afraid of what was about to happen, Dynasty pulled the device out of his bag, pointed it up in the air over his head, and activated it. The noise caused the aggressors to scatter without assaulting him. What happened next was unbelievable: instead of trying to find the students who threatened Dynasty, school officials suspended and later expelled Dynasty for trying to protect himself.

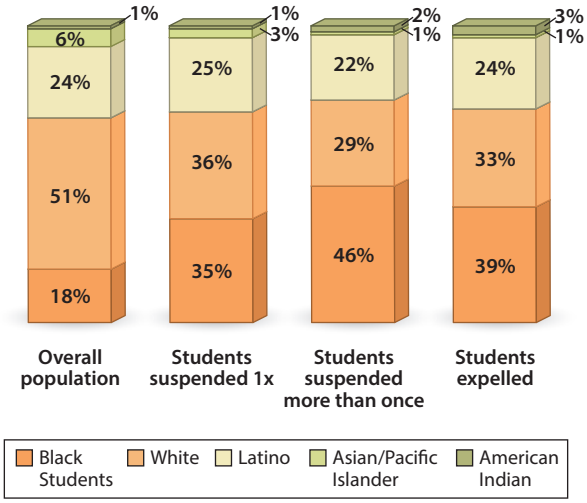
Despite efforts by the National Center for Lesbian Rights (NCLR) to persuade the school district to reconsider the expulsion, school administrators refused, offering to take Dynasty back only if he attended an alternative school for students with behavioral difficulties. Rather than return to school under those unacceptable conditions, Dynasty enrolled at Indianapolis Metropolitan High School, a charter school. In August of 2012, NCLR filed a federal lawsuit against the school district on Dynasty's behalf, challenging the expulsion and school administrators' failure to address the harassment he experienced.

Source: Adapted from Kate Kendell. "We Won for Dynasty!" National Center for Lesbian Rights. July 12, 2013. http://www.nclrights.org/we-won-for-dynasty/ (accessed October 16, 2013).

to face harsh discipline than white students and those without disabilities.[66] As shown in *Figure 18*, black students are more likely to be suspended or expelled than white peers.[67] And, over 70% of students involved in school-related arrests or referred to law enforcement are Hispanic or African American.[68]

These findings make the case that LGBT youth of color are at higher risk than most of their peers of entering the school-to-prison pipeline. Additional evidence comes from research showing higher rates of incarceration for LGBT youth and youth of color. Recent estimates find that LGBT youth comprise 5-6% of the youth population but are 13-15% of the youth in the juvenile justice system.[69] And, youth of color are heavily overrepresented; African American youth comprise two out of every five confined youth, while one out of five confined youth are Latino.[70]

Figure 18: Black Students Are More Likely to Face Disciplinary Action at School



Source: Department of Education. "Revealing Truths About Our Nation's Schools." March 12, 2012.

Obstacles to Pursuing and Completing Higher Education

Pursuing a higher education—either at a four-year college, a community college or a trade school—vastly improves an individual's employment opportunities. Unfortunately, the educational barriers described above mean that a disproportionate number of LGBT youth of color are not academically prepared to apply to or attend a post-secondary educational institution. Moreover, even when an LGBT student of color does pursue a higher education, financial barriers, an unsupportive campus climate and a lack of institutional support can play a large role in whether the student completes his or her studies.[71] Youth of color have substantially lower college completion rates compared to white students (as shown in *Figure 19*).

Among the major barriers to higher education for LGBT youth of color are:

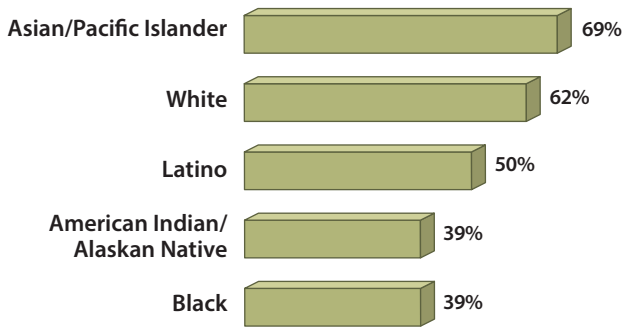
- **High cost of college, combined with a lack of family support:** LGBT students of color are more likely than their non-LGBT white peers to come from families with fewer economic resources. These students also are more likely than other students to have strained relationships with their parents. Research and anecdotal evidence has shown that many children who reveal their LGBT status are kicked out of their families and their homes. One result is that many LGBT students of color cannot afford the high costs of college. The lack of family support also means these students lack the resources, the encouragement and the information they need to apply for and receive student loans.

  Once in college, many LGBT students of color may need to rely on part-time or even full-time jobs to help pay for tuition, but these jobs can take away from the time needed to study and fulfill academic requirements. Adding to the challenges for LGBT students of color, they are more likely to face employment discrimination, which can make it more difficult for them to find a job to help pay for school (for more on employment discrimination, see Section 2).

  The challenges associated with the high costs of a higher education are even greater for undocumented LGBT students of color. Undocumented students are ineligible for federal student loans and work-study programs, and many do not qualify for lower-cost, in-state tuition at public universities in their home states. Additionally, those who are not eligible for are not granted "deferred action" status[h] are not authorized to legally work in the U.S., so they may struggle to find jobs that provide better pay and reliable schedules.

- **Unwelcoming and unsafe educational environments:** College campuses can be intimidating places. As is the case in many middle and high schools across the country, LGBT students of color may feel doubly excluded or out place once they get to college. Minority students often make up a small percentage of total college student populations, making them more at risk for alienation on campus. (In all, 33% of college students at four-year public institutions and 31% of students at private colleges are students of color, compared to 37% percent of the general population.[72]) Making matters worse, many colleges also do not provide welcoming environments for LGBT students. For example, a study of college students in Oregon found that more than half of LGBT students hid their sexual orientation or gender identity because they worried about their physical safety, discrimination or rejection.[73] The cumulative effect of unwelcoming and unsafe education environments was that these students were more likely to miss class, take a prolonged break from their studies or not graduate on time.[74]

Figure 19: Percent of Students Receiving College Degree Within Six Years
By Race/Ethnicity



Source: National Center for Education Statistics. "Postsecondary Graduation Rates (Indicate 45-2012)." 2012.

[h] On June 15, 2012, the Secretary of Homeland Security announced that certain people who came to the United States as children and meet several key guidelines may request consideration of "deferred action" for a period of two years, subject to renewal, and would therefore be eligible for work authorization. Deferred action is a discretionary determination to defer removal of an individual as an act of prosecutorial discretion. Deferred action does not provide an individual with lawful status. http://www.uscis.gov/portal/site/uscis.

Richard's Story: My Story is America's



Portrait © Timothy Greenfield-Sanders

Richard Blanco was chosen to read at President Barack Obama's inauguration in January 2013.

…I was made in Cuba, assembled in Spain, and imported to the United States—meaning my mother, seven months pregnant, and the rest of my family arrived as exiles from Cuba to Madrid, where I was born. Less than two months later, we emigrated once more and settled in New York City, then eventually in Miami, where I was raised and educated…

As might be typical, my exile/immigrant family pushed for me to pursue a career that would ensure I would have a better life than they did. Also, in a working-class family, the idea of pursuing a life in the arts was outside the realm of possibilities. My family even thought architecture was too "artsy." …Robert Frost and T.S. Eliot were not dinner conversation at my house. My parents didn't even know of the Rolling Stones. They wanted me to continue the story of the "American dream" that they had begun…

My sexual identity was something I also had to negotiate. The antagonist in my coming-out story was my grandmother, a woman as xenophobic as she was homophobic. Anything she perceived as culturally "weird," she also labeled as "faggotry"—"mariconería." This included my playing with toys like G.I. Joes and action figures of super heroes (Wonder Woman being my favorite). Convinced that I was queer—she had good intuition, I guess—she was verbally and psychologically abusive because she was also convinced she could make me a "real" man.

She scared me into a closet so deep and dark that the idea of living as a gay man was completely, like a career in arts, out of the realm of possibilities. And so, like many gay men of my generation, I led a straight life, and was even engaged twice to be married, until I came out in my mid-20s.

Being named poet laureate for the inauguration personally validates and stitches together several ideals against which I have long measured America, since the days of watching "My Three Sons" and "The Dick Van Dyke Show" reruns. For one, the essence of the American dream: how a little Cuban-American kid on the margins of mainstream America could grow up with confidence, have the opportunity to become an engineer thanks to the hard work of his parents who could barely speak English, and then go on, choosing to become a poet who is now asked to speak to, for and about the entire nation.

The most powerful quality of our country is that each day is full of a million possibilities: We are a country of fierce individualism, which invites me to shape my life as I see fit. As I reflect on this, I see how the American story is in many ways my story—a country still trying to negotiate its own identity, caught between the paradise of its founding ideals and the realities of its history, trying to figure it out, trying to "become" even today—the word "hope" as fresh on our tongues as it ever was.

Regardless of my cultural, socioeconomic background and my sexuality, I have been given a place at the table, or more precisely, at the podium, because that is America.

Source: Adapted from Richard Blanco. "Inaugural poet: My story is America's." *CNN News*. January 22, 2013. http://www.cnn.com/2013/01/20/opinion/blanco-inaugural-poet/index.html (accessed September 26, 2013).

Historically Black Colleges and Universities (HBCUs) Take on LGBT Inequality

Historically Black Colleges and Universities (HBCUs) have been at the forefront of educating African American students in the U.S. for more than 100 years. These 105 colleges and universities are uniquely committed to supporting black students, and they serve an estimated 12% of black college students in the country.[75]

For many LGBT students of color, however, these campuses have not been supportive places. Research finds that HBCUs are traditionally more conservative on a variety of issues including sexuality, dress codes, religiosity and student conduct.[76] Recent estimates suggest that only 21% of the HBCUs in the U.S. have an LGBT organization to support students on campus.[77] At a 2010 meeting hosted by the National Association for Equal Opportunity in Higher Education, the majority of HBCU presidents indicated that there was very little or no support network in place on their campuses to support LGBT students.[78]

Recent efforts led by the National Black Justice Coalition, the Human Rights Campaign and several HBCUs have resulted in important conversations and changes on campuses that are crucial to supporting black LGBT students as they pursue higher education. For example, the Human Rights Campaign's HBCU LGBT Leadership and Career Summit provides LGBT student leaders from these institutions with an opportunity to learn from one another and increase the strength of their voices on campus. The National Black Justice Coalition launched its Equality Initiative in 2011 to advance cultural competency among administration, faculty, staff and student support services. As part of this initiative, the National Black Justice Coalition created an online survey to track hate crimes and bias incidents that occur on HBCU campuses.

Additionally, in 2011, Spelman College hosted a summit to discuss the institutional climate at HBCUs around diversity, inclusion, gender and sexuality. This gathering was the first time that a group of HBCUs gathered to discuss LGBT issues on their campuses. In 2013, Morehouse College offered its first academic course on black LGBT issues–only the second HBCU to offer such a course.[79] As of October 2013, three HBCUs had dedicated staff through LGBT offices to support LGBT students: Bowie State University, North Carolina Central University, and Fayetteville State University.[80]

Recommendations

LGBT youth of color face substantial educational barriers that prevent them from obtaining a quality education, which is the cornerstone for competing and securing an economically sustainable, good job. As a result of unsafe schools, under-resourced schools, the school-to-prison pipeline, and systemic and structural barriers to higher education, LGBT youth of color may have the odds stacked against them from the outset.

Removing these educational barriers is neither easy nor simple. Rather, action is needed on the part of federal, state and local governments, community organizations and advocates, schools and colleges, and communities to ensure that all youth in the U.S., including LGBT youth of color, have equitable opportunities to succeed in school and obtain the skills and training needed to compete for good jobs.

Recommendations to Eliminate or Reduce Educational Barriers for LGBT Youth of Color		
Create safe schools for LGBT youth of color		
Federal Government	Congress should pass legislation such as the Safe Schools Improvement Act (SSIA) and the Student Non-Discrimination Act (SNDA).	Legislation such as SSIA would require schools to implement comprehensive anti-bullying policies with explicit mention of race, ethnicity, national origin, sexual orientation and gender identity, as well as require that states provide data to the U.S. Department of Education about bullying and harassment. SNDA would prohibit discrimination and bullying in schools based on sexual orientation or gender identity and would require that schools address harassment and bullying when it occurs.
States	States should pass safe schools laws.	Safe schools laws have been shown to increase the safety of LGBT students. These laws should provide model policies for school districts, require prompt action by teachers or other school staff, and offer funding to ensure teacher training. Rather than employing "zero-tolerance" policies, safe schools laws should empower school administrators and give them discretion in addressing incidents and finding solutions that work for individual students. There are two types of safe schools laws: • States should pass anti-bullying laws that explicitly prohibit bullying and harassment based on sexual orientation and gender identity (and race/ethnicity, if current laws do not already do so). • States should also consider nondiscrimination laws that protect students from discrimination based on sexual orientation and gender identity (and race/ethnicity, if current laws do not already do so).
School Districts	School districts should develop comprehensive, tailored anti-bullying programs to be incorporated into the curriculum at all levels.	Research shows that anti-bullying programs that are fully integrated into a school's system are the most effective at creating environments that are safe, accepting and supportive.[81] Examples of model district and school policies are available from the Gay, Lesbian and Straight Education Network (GLSEN).[82] Programs should emphasize teacher and staff training so that school personnel are empowered to address student harassment and bullying when it happens.
School Districts, Cities and States	Curricula should be inclusive and reflective of students' diversity.	Schools should adopt curricula that prepare students for living in diverse communities. When students of color and LGBT students see themselves reflected in the curriculum, they not only feel valued and respected, but they also see individuals who can serve as role models.
Ensure schools have resources needed to address students' needs		
School Districts, Cities and States	School districts, cities and states should work to address school funding disparities and help ensure a quality education for all students regardless of race/ethnicity, sexual orientation or gender identity/expression.	Comprehensive recommendations on how to restructure school funding are beyond the scope of this report, though resources can be found at Center for American Progress's Education page: http://www.americanprogress.org/issues/education/view/. Any reforms should address the issues of equity in per-pupil spending and teacher pay in schools and districts with greater percentages of students of color.

Recommendations to Eliminate or Reduce Educational Barriers for LGBT Youth of Color		
Support LGBT youth of color as they pursue higher education		
Colleges/ Universities	Colleges and universities should invest in supporting diverse students and integrating diversity initiatives across the university.	Supporting students from diverse backgrounds – including students of color and students who identify as LGBT – will help increase the number of students who finish college. Resources should include LGBT campus groups, campus organizations devoted to supporting students of color, administration-level commitments to diversity and inclusion on campus, and a diverse curriculum across the university that includes the perspectives of LGBT people of color. • The University of California at Berkeley, for example, has an Undocumented Student Program, which provides assistance to students on campus ranging from help finding housing and financial assistance to legal and emotional support. • Several colleges and universities include diversity coursework as part of their required curriculum. These courses substantively address race, ethnicity, class and/or sexual orientation and gender identity.
Colleges/ Universities	Colleges and universities should expand existing nondiscrimination policies to also prohibit discrimination based on sexual orientation and gender identity/ expression.	These policies are crucial not only for LGBT students, but also to increase the number of openly LGBT faculty and staff members on campus who can provide mentorship and support to LGBT students.
Colleges/ Universities	Colleges and advocates should offer financial support for LGBT students of color and train financial aid officers to understand these students' unique situations.	Financial aid officers at colleges and universities should be trained about the unique barriers that LGBT students of color may face – both as students of color and also because of their LGBT identity and the potential challenges it may present in obtaining support from family members. • For example, LGBT students may face challenges in completing the Free Application for Federal Student Aid (FAFSA), particularly if they are estranged from their parents or fear coming out to their parents as LGBT.
Advocates and social service organizations	Advocates and allies should assist LGBT students of color, including first-generation college students, in finding scholarships.	The Human Rights Campaign offers an LGBT student scholarship database, which can help LGBT students find opportunities to fund their educational pursuits, while the Point Foundation provides scholarships directly.[83] Organizations that support equal opportunities for LGBT students of color should create listings aggregating scholarships by interest area and school.

Recommendations to Eliminate or Reduce Educational Barriers for LGBT Youth of Color		
States and Colleges/ Universities	Provide in-state tuition for undocumented students.	Because undocumented students are not eligible for federal student aid, states and public colleges and universities should amend their in-state tuition requirements to allow undocumented students who meet residency requirements to pay in-state tuition. • For example, in July 2013 the University of Michigan Board of Regents voted to allow undocumented students to qualify for in-state tuition. Students must have attended a Michigan middle school or junior high for two years and spent at least three years at a Michigan high school to qualify. State legislatures should pass legislation permitting undocumented students to qualify for in-state tuition. As of May 2013, 15 states had laws to this effect. In general, the laws have the following requirements:[84] • Students must attend primary school (middle school/junior high and high school) in the state for a certain number of years. • Students must graduate from a high school in the state. • Students must sign an affidavit stating they have applied, or will apply, for legal status when they become eligible.
Federal Government, States, and Colleges/ Universities	Include questions about sexual orientation in addtion to race/ethnicity in surveys about college experience and retention.	In national and state surveys, as well as campus surveys, students should be asked about their sexual orientation and gender identity in addition to current questions about race and ethnicity. This data would allow administrators and researchers to better understand the experiences of LGBT students of color and design programs to ensure that they are supported and can complete their educations.[85]
Federal Government	Pass legislation to increase college affordability.	Congress should pass legislation to make higher education more affordable. Examples include: • Passing the Bank on Students Loan Fairness Act to make equivalent the interest rates on student loans and the interest rate at which banks can borrow from the federal government. • Raising the maximum Pell Grant scholarship available to low-income students pursuing higher education.
Colleges/ Universities and Advocates	Educate students about financial aid and loan options and how to manage loan debt.	Various programs exist to help students manage student loan debt, including loan forgiveness programs. Colleges and universities, as well as advocates, should engage with students to educate them about the various repayment options and ways to finance their higher education.

Recommendations to Eliminate or Reduce Educational Barriers for LGBT Youth of Color		
Work to Reduce Homelessness for LGBT Youth of Color		
Federal Government	Congress should amend the Runaway and Homeless Youth Act to provide explicit protections to LGBT homeless youth.	The Runaway and Homeless Youth Act (RHYA) awards grants to public and private organizations assisting homeless youth. The bill makes no mention of LGBT youth despite their disproportionate representation among the homeless youth population. Congress should explicitly incorporate LGBT youth into the Runaway and Homeless Youth Act. Congress could, for example, adopt a general statement of nondiscrimination for the bill that includes sexual orientation and gender identity. This would prohibit grant recipients using RHYA funds from discriminating against LGBT youth, who are frequently mistreated or turned away when they seek help from these organizations simply because they identify as LGBT.
Federal Government	Congress should pass legislation to reduce homelessness among all youth, such as the Reconnecting Youth to Prevent Homelessness Act.	Legislation such as the Reconnecting Youth to Prevent Homelessness Act aims to improve training, educational opportunities and permanency planning for older foster-care youth; and reduce homelessness among all young people, including youth of color and those who are LGBT. Such legislation should also call on the Secretary of Health and Human Services to establish a demonstration project that develops programs that improve family relationships and reduce homelessness specifically for LGBT youth. A growing body of research from the Family Acceptance Project suggests that this family-centered approach is one of the best ways to support LGBT homeless youth. Targeted support for these programs has the potential to significantly decrease rates of homelessness.
Federal Government	The President and Congress should strengthen programs that support families with LGBT children.	The President and Congress should strengthen social programs that too often fail LGBT youth of color with a focus on supporting families. For example, the administration should request funding to create and support a program that provides inclusive counseling services for families in which kids come out as LGBT. This work would strengthen and support general family counseling programs, family acceptance and reunification programs, and empowerment and enrichment programs for LGBT youth and their families—all with the goal of reducing the number of youth who become homeless due to family rejection and conflict over sexual orientation or gender identity.
Federal Government and States	Expand housing options for LGBT homeless youth of color.	Addressing youth homelessness requires a coordinated strategy at the federal and state levels, with targeted policies to address LGBT homeless youth as well as youth of color. The strategy should address a number of challenges that currently hamper cross-agency cooperation to fix this problem, including: • Developing a common definition of unaccompanied homeless youth across agencies. • Developing a "continuum of care" plan for unaccompanied youth. The National Alliance to End Homelessness has developed such a plan that may serve as a model for this strategy. • Establishing affirmative cultural competency training on issues of sexual orientation, gender identity, race and ethnicity for grant recipients that work to prevent youth homelessness and provide shelter for youth who are homeless. • Addressing the need for targeted programs for LGBT youth. Funding should support programs that house homeless LGBT youth specifically or programs that have explicit policies prohibiting discrimination in housing and programs.

Recommendations to Eliminate or Reduce Educational Barriers for LGBT Youth of Color		
Federal Government and States	The President and Congress, as well as state legislatures, should initiate and fund research on LGBT youth homelessness.	Supporting research on LGBT youth homelessness should be part of a broader research agenda on the challenges and realities that face LGBT youth, including LGBT youth of color. This broad research agenda should be designed to find out more about developmental needs, health disparities and educational and workplace challenges for LGBT Americans, with the goal of developing research-driven solutions to these (and other) issues and challenges.
Dismantle the School-to-Prison Pipeline		
Federal Government, States, Local Legislators and Educational Institutions	Advance policies and initiatives that keep youth from entering the school-to-prison pipeline.	Government and educational institutions should work together to develop and implement initiatives such as the Federal Supportive School Discipline Initiative, which aims to do four things: • Build consensus for action to dismantle the school-to-prison pipeline among federal, state and local education officials, and the criminal justice system. • Research and accumulate data on alternative policies to incarceration and disciplinary practices that work more effectively. • Ensure policies and practices are in accordance with federal civil rights laws, which is especially important considering the widespread lack of due process rights for students who attempt to re-enroll in school upon release from the justice system. • Increase awareness of effective policies and practices that prove beneficial in combating the school-to-prison pipeline.
Local School Districts	Revise discipline policies to better ensure student safety while working to keep students in school	School districts should empower school officials to handle the majority of disciplinary actions, rather than involving law enforcement. Schools districts should track data on disciplinary actions and students' race and ethnicity so they can identify if there is disparate treatment and take action to eliminate it.

OBSTACLE #2: HIRING BIAS AND ON-THE-JOB DISCRIMINATION

Unequal education opportunities for LGBT people of color compound the challenges they face once they enter the job market and the workforce. Even without educational barriers, finding, getting and keeping a good job is harder for LGBT people of color. As shown in the infographic on the next page, they must navigate a complicated array of challenges, any one of which may mean not getting a job or being unfairly fired or discriminated against once they have a job. These challenges range from unwarranted and onerous background checks to bias in recruitment and hiring to discriminatory practices that stand in the way of job advancement and economic security for LGBT workers of color. Adding to the challenges, these workers often lack legal recourse when workplace discrimination occurs.

The barriers discussed in this section combine to make it difficult for many LGBT workers of color to find good and steady jobs that provide them with the economic security they need to support themselves and their families.

Unwarranted Background Checks

Many employers require that job applicants undergo a background check before they are offered employment. These checks may include a review of a job candidate's criminal record, credit history and more. A patchwork of federal and state laws provides guidelines for employers on how and when they can use these background checks to influence employment decisions. However, there is evidence that many employers use these screens to unfairly disqualify candidates, particularly in situations where the information generated during the background check is not directly related to the job for which someone is applying.[86] For workers of color, and LGBT workers of color in particular, these background checks can be problematic and can make securing employment more difficult.

BIAS & DISCRIMINATION

MAKE IT HARDER FOR LGBT WORKERS OF COLOR TO FIND AND KEEP GOOD JOBS

BARRIERS

- LACK OF LEGAL WORK AUTHORIZATION
- UNWARRANTED BACKGROUND CHECKS
- LACK OF MENTORSHIP AND ON-THE-JOB SUPPORT
- INADEQUATE NONDISCRIMINATION LAWS
- HIRING BIAS AND ON-THE-JOB DISCRIMINATION



SOLUTIONS

- END IMPROPER USE OF BACKGROUND CHECKS
- ADOPT/PASS NONDISCRIMINATION LAWS AND POLICIES
- ENSURE DISCRIMINATION CLAIMS ARE PROCESSED QUICKLY/ EFFECTIVELY
- SUPPORT YOUTH OF COLOR PURSUING HIGHER EDUCATION
- PROVIDE PATHS TO WORK AUTHORIZATION AND CITIZENSHIP

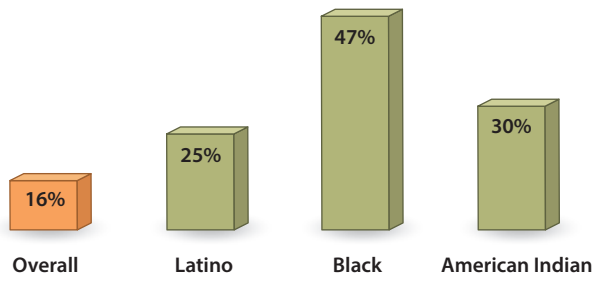
Criminal Records Check: The school-to-prison pipeline and high rates of homelessness, along with much higher rates of incarceration for people of color generally, all mean that LGBT people of color are more likely to have been incarcerated. For example, as shown in *Figure 20*, one study found that that 16% of transgender people reported having been incarcerated, with much higher rates for some transgender people of color (47% of black transgender respondents, 30% for American Indian and 25% for Latino respondents).[87] A different study found that 60% of transgender youth of color had engaged in sex work for money or other resources, such as food or clothing, which increases the likelihood of interactions with law enforcement.[88] And transgender people generally report high rates of police harassment, with transgender people of color reporting higher rates than white transgender people.[89]

Additionally, within the general population, people of color are more likely to have interactions with law enforcement that result in criminal records.[90] As shown in *Figure 21*, black men are 6.3 times more likely to be currently incarcerated compared to white men.

Having a criminal record can be a significant obstacle to securing a good job. A 2012 survey by the Society for Human Resource Management found that 69% of organizations reported conducting criminal background checks on all job candidates, and 18% completed checks on some candidates.[91] A slim majority of these organizations (58%) allowed job candidates to explain the results of the criminal background check before a decision was made about whether to hire the applicant. Unfortunately, however, many employers use a criminal record of any kind as an automatic reason for excluding an applicant.

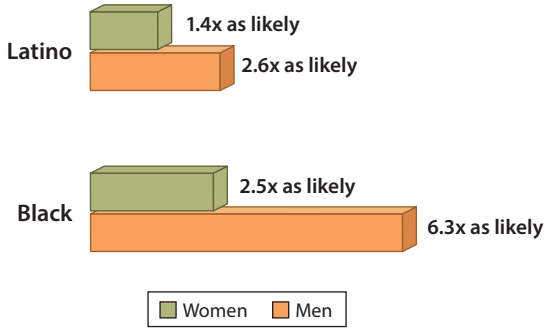
There is little evidence that the existence of a criminal record is at all predictive of an individual's likelihood to commit a crime at work, let alone his or her job performance.[92] Additionally, when an applicant does have a criminal record, employers often give a greater "benefit of the doubt" to white applicants. The Equal Employment Opportunity Commission (EEOC) has noted that criminal background checks and their use in hiring decisions have been shown to have a disparate impact on applicants of color. The EEOC recently released guidance putting employers on notice that use of an individual's criminal history in making employment decisions may, in some instances, violate the prohibition against employment discrimination under Title VII of the Civil Rights Act of 1964.[93] The EEOC's guidance recommends

Figure 20: Incarceration Rates for Transgender People
By Race/Ethnicity



Source: Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. Injustice At Every Turn: A Report of the National Transgender Discrimination Survey. Washington: *National Center for Transgender Equality and National Gay and Lesbian Task Force*, 2011. http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

Figure 21: Incarceration Rates for People of Color Compared to White People



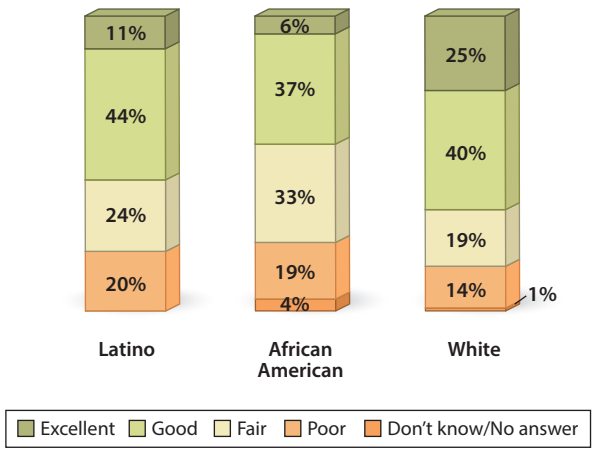
Source: Carson, E. Ann and William J. Sabol. "Prisoners in 2011." U.S. Department of Justice. December 2012. http://bjs.gov/content/pub/pdf/p11.pdf.

that employers limit their use of criminal background checks when there is no compelling business necessity.

The inability to obtain a job due to a criminal record creates a vicious cycle as lack of stable employment is the single greatest predictor of recidivism among individuals with criminal records.[94] Given the racial imbalances in the U.S. criminal justice system, workers of color—most often black and Latino men, including those who are LGBT—are more substantially impacted when employers improperly rely on criminal records to influence hiring decisions.

Credit Checks: It is estimated that 47% of employers regularly conduct credit checks on prospective applicants.[95] In a recent survey of low- and middle-income households with credit card debt, one in 10 unemployed respondents who had been turned down for a job were told that it was because of information on their

Figure 22: Quality of Credit
By Race/Ethnicity



Source: Amy Traub. "Discredited: How Employment Credit Checks Keep Qualified Workers Out of a Job." Demos.org. February 2013. http://www.demos.org/sites/default/files/publications/Discredited-Demos.pdf.

credit report.[96] Combined with bouts of unemployment related to discrimination, lower educational attainment and higher rates of poverty, LGBT workers of color may be disproportionately likely to have poor credit (see *Figure 22*) and therefore face challenges in obtaining jobs that require credit checks.[97]

Although little research exists on the credit of LGBT people of color, research finds that predatory lending practices along with a lack of understanding of credit result in increased likelihood of poor credit among people of color generally. Plus, people of color have been disproportionally hard hit by the recent economic recession, meaning they are at greater risk of falling behind on bills and having bad credit.

Hiring Bias and On-the-Job Discrimination

For many workers in the United States—particularly people of color, women and people with disabilities—hiring bias and on-the-job discrimination are nothing new. Workplace nondiscrimination laws have helped eliminate blatantly inequitable job postings (like "help wanted: able-bodied male" or "whites only") and egregious acts of discrimination on the job, yet studies show that hidden and often-unrecognized bias still exists.[98]

Hiring Bias

Although most human resource departments and hiring managers strive to be fair, personal factors still come into play when employers make hiring decisions. Job screeners must rely on what little information they can obtain about applicants from cover letters, résumés, job applications, Web searches and other research. With this sparse information, they make inferences about each candidate's qualifications in order to determine whether to place the candidate's application in the "under consideration" pile or the "no thanks" bin. Interviewers, who may have little face-to-face time with each applicant, often cannot do much more than ask a few experience-related questions and develop a "gut check" first impression that may have little to do with a person's actual ability to do the job. When inferences and impressions fill gaps in knowledge, research shows that stereotypes, stigma and prejudice can emerge.

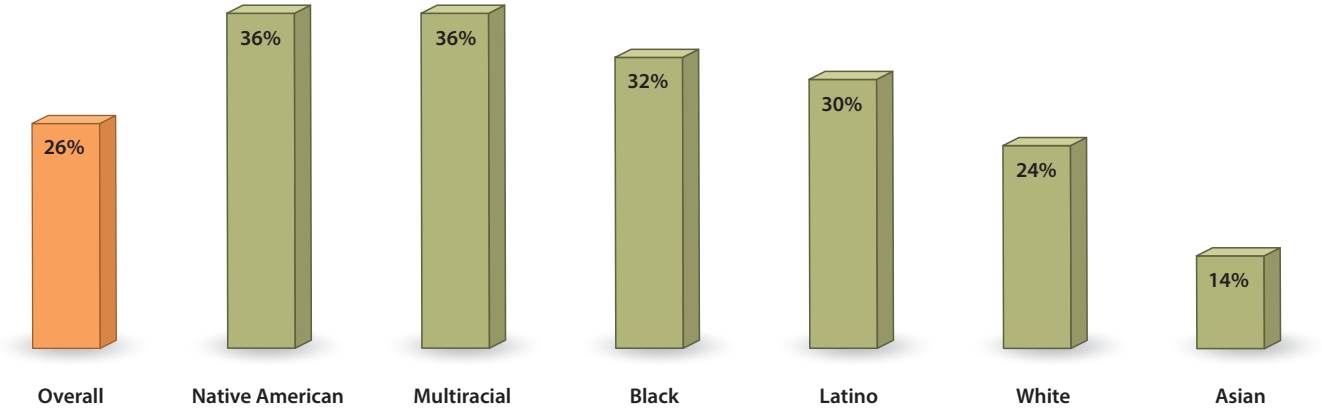
Although research has predominantly focused on race-based and gender-based hiring bias, employers also have been shown to make decisions based on other characteristics such as age, disability, status as a parent and obesity. And while more research is needed, studies have found that hiring bias based on perceived sexual orientation or gender identity/expression is as prevalent as hiring bias based on other characteristics.

When job applicants have more than one trait that can trigger hiring bias, it can create a "multiplier effect" that makes it even harder to seek and obtain good jobs. This is why LGBT applicants of color often face many extra barriers to securing a good job. Job applicants who openly mention a same-sex partner (for example, by asking if the company health plan would cover a partner) could put their chances of getting a successful offer at risk. On the flip side, LGBT candidates of color who decide to keep quiet about their sexual orientation or gender identity/expression cannot ask about important family benefits at the risk of outing themselves. Similarly, a transgender applicant may be unable to ask whether he will be fully covered under the company healthcare plan.

Additionally, despite similar work experience and qualifications, applicants of color within the general population are less likely to be invited for interviews than white candidates. Researchers in one study submitted equivalent resumes to employers, but one set had racially identifiable names to signal that the applicants were African American while the other set had names more typically associated with white applicants.[99] The applicants with the names associated with white candidates were 50% more likely to receive a callback. During job interviews, white candidates are interviewed longer and interrupted

Figure 23: Percent of Transgender Respondents Reporting Having Lost a Job Because They Are Transgender

By Race/Ethnicity



Source: Grant, Jaime M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice At Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011. http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

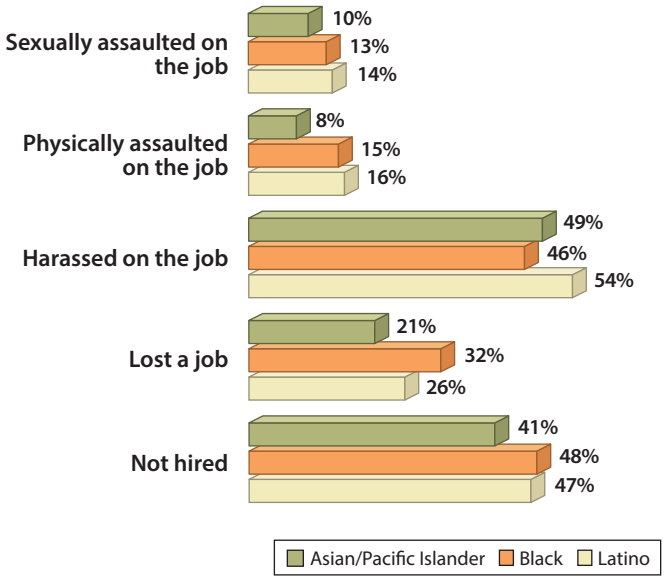
less than candidates of color. Candidates of color also are nearly twice as likely to have their work experience checked. A 2009 study of high-end Manhattan restaurants found that applicants of color were not only less likely to be granted an interview; they also were kept waiting longer, had shorter interviews, were less likely to be offered a job, and once on the job, received a less favorable offer and were less likely to be warmly welcomed on the job.[100]

A 2013 study found that some of the challenges faced by African American workers stemmed from the role that professional networks play in finding jobs.[101] Because white Americans are more likely to hold positions of power and leadership within organizations, minority applicants may not be considered because they are not part of the professional networks of the individuals in charge of making hiring decisions.

On-the-Job Discrimination

Once on the job, LGBT workers of color experience higher rates of discrimination and additional challenges in the workplace due to discrimination based on race, sex and sexual orientation and gender identity. For example, surveys of Asian and Pacific Islander (API) LGBT people uncovered shockingly high rates of sexual orientation discrimination; between 75-82% of API LGBT people said they had been discriminated against at work because of their sexual orientation.[102] Surveys of black LGBT people put rates of employment discrimination closer to 50%.[103] Among transgender workers, workers of color report higher rates of job loss because of being transgender or gender nonconforming, compared to white transgender workers (see *Figure 23*).[104] Similarly, black, Asian and Pacific Islanders, and Latino transgender people report higher rates of employment discrimination (see *Figure 24*).

Figure 24: Discrimination Reported by Transgender People of Color



Sources: National Gay and Lesbian Task Force, National Center for Transgender Equality, and LULAC. "Injustice at Every Turn: A Look at Latino/a Respondents in the National Transgender Discrimination Survey." December 2011. http://www.transequality.org/Resources/Injustice_Latino_englishversion.pdf; "Injustice at Every Turn: A Look at Asian American, South Asian, Southeast Asian, and Pacific Islander Respondents in the National Transgender Discrimination Survey." July 2012. http://www.transequality.org/Resources/ntds_asianamerican_english.pdf; "Injustice at Every Turn: A Look at Black Respondents in the National Transgender Discrimination Survey." September 2011. http://www.transequality.org/PDFs/BlackTransFactsheetFINAL_090811.pdf.

These high rates of discrimination against LGBT workers of color are unsurprising given the high rates

of discrimination faced by both the broader LGBT and people-of-color populations. For example:

- A study of lesbian, gay and bisexual people found that between 8% and 17% reported being unfairly fired or denied employment.[105] The National Transgender Discrimination Survey found that 26% of transgender workers had been fired because of their transgender status.
- A survey of LGBT workers found that 58% had heard jokes or derogatory comments about LGBT people at work,[106] while the National Transgender Discrimination Study found that 78% of transgender and gender-nonconforming employees had experienced harassment or discrimination on the job.
- Workers of color also still face race-based discrimination on the job, despite laws prohibiting such discrimination. In fact, of complaints filed in 2011 with the Equal Employment Opportunity Commission (EEOC), 35% alleged discrimination based on race, compared to 28% for sex or gender discrimination, and 26% for disability discrimination. (The EEOC does not track complaints based on sexual orientation or gender identity/expression.)[107] When surveyed, workers of color, particularly black and Asian workers, report higher rates of discrimination than white workers (see *Figure 25*).

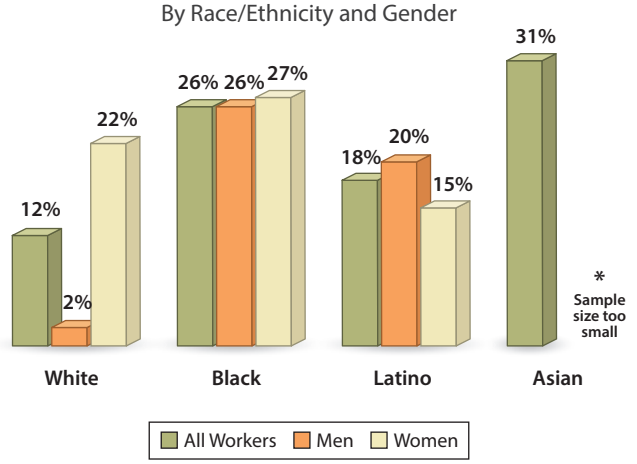
Since LGBT employees of color may face "double discrimination" if they come out at work, it is also not surprising that a recent study found that black and Latino LGBT workers were less likely to be out than other LGBT workers (see *Figure 26*). Only 18% of Latino LGBT workers were out to everyone at work, compared to 25% of black LGBT workers and 29% of white LGBT workers. This illustrates the critical need for workplace protections based on sexual orientation and gender/identity expression alongside existing race-based protections.

Failure of Nondiscrimination Laws to Protect LGBT Workers of Color

While Title VII of the Civil Rights Act prohibits employment-related discrimination on the basis of race and ethnicity, there is no federal law that explicitly protects LGBT workers from discrimination and harassment (see the infographic on page 32). This means, for example, that a worker of color who experiences discrimination because he or she is gay or lesbian can be legally fired under federal law. An overwhelming majority of Americans (87%) mistakenly believe it is already illegal under federal law to fire someone simply for being LGBT.[108] Also, as discussed above, protections against race-based discrimination in the Civil Rights Act have certainly not stopped such discrimination from occurring. While the Civil Rights Act originally helped to drive greater equality at work for people of color in the U.S., there is evidence that the power of this law is dissipating. For example, data show that racial segregation in many industries is on the rise.[109]

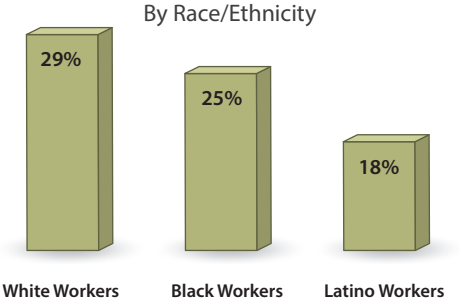
Contrary to American values of fairness and equality in the workplace, many policymakers have shown a perplexing reluctance to expand existing nondiscrimination laws to cover sexual orientation and gender identity/expression. In fact, the lack of protections for LGBT workers persists despite overwhelming public

Figure 25: Rates of Discrimination Reported by Workers
By Race/Ethnicity and Gender



Source: The Gallup Organization. "Employee Discrimination in the Workplace." December 2005. http://media.gallup.com/government/PDF/Gallup_Discrimination_Report_Final.pdf.

Figure 26: Percent of LGBT Workers Who Are Out to Everyone at Work
By Race/Ethnicity



Source: Human Rights Campaign Foundation. "Degrees of Equality: A National Study Examining Workplace Climate for LGBT Employees." 2009. http://www.hrc.org/files/assets/resources/DegreesOfEquality_2009.pdf.

Faith's Story: Choosing Between Being Myself and Being Safe



Nearly every single time I've come out as a bisexual woman in the workplace, I've experienced severe sexual harassment. Coworkers have made inappropriate jokes, made sexual advances, and shown me sexually graphic photos. I've had several jobs where I felt unsafe.

Once at an office party, I was talking to a coworker who knew I'm bisexual, and he spoke to me in a very sexually explicit way about my body. When I confronted him, he said that he thought I'd "be cool with it because I'm bisexual." I was shaken by the incident, but when I brought my concerns to management, I was told that because I was out, he had every right to discuss my body and sexuality. I felt blamed because I was out at my job. It felt like they were implying that because I was living openly, I must be asking for discrimination and harassment.

A few years later, a good friend of mine, who is gay, told me about a job at a university research department. He was happy there. I assumed it would be safe because my friend was out at work. I was wrong. When my new boss found out that I identify as bisexual, I was let go because of "improper discussions in the workplace." My gay coworker could be out, but my supervisor said that "black folks aren't like that," so I shouldn't be.

Early in my career, I brought such concerns to my employers' human resources department, but received little, if any, support. One told me that I brought harassment upon myself simply because I was out. Another said that my experience didn't qualify as sexual harassment because I am bisexual. I'm a good worker, an excellent worker, but at times when I've asked for fair treatment, I've been denied. It's unfair to have to choose between being visible and being safe at work. I shouldn't have to choose between being employed and being open about who I am.

—Faith Cheltenham

Ashland's Story: Fired While in the ICU



In 2006, Ashland Johnson was in the ICU at the hospital recovering from blood clots in both lungs when she received a letter from her boss. Instead of a "get well" card, she learned that she'd been terminated.

Several months earlier, Ashland's supervisor discovered she was a lesbian. In the following days she was systematically locked out of her office, left out of department meetings, and ignored by administrative officials. Then Ashland refused to sign a "voluntary" letter of resignation from her Georgia employer.

Ashland had no legal recourse because Georgia lacks an employment nondiscrimination law covering sexual orientation. And, there is no federal law protecting her against employment discrimination on the basis of sexual orientation.

Source: Adapted from Aisha C. Moodie-Mills. "Jumping Beyond the Broom: Why Black Gay and Transgender Americans Need More Than Marriage Equality." *Center for American Progress*. January 2012. http://www.americanprogress.org/wp-content/uploads/issues/2012/01/pdf/black_lgbt.pdf (accessed September 26, 2013).

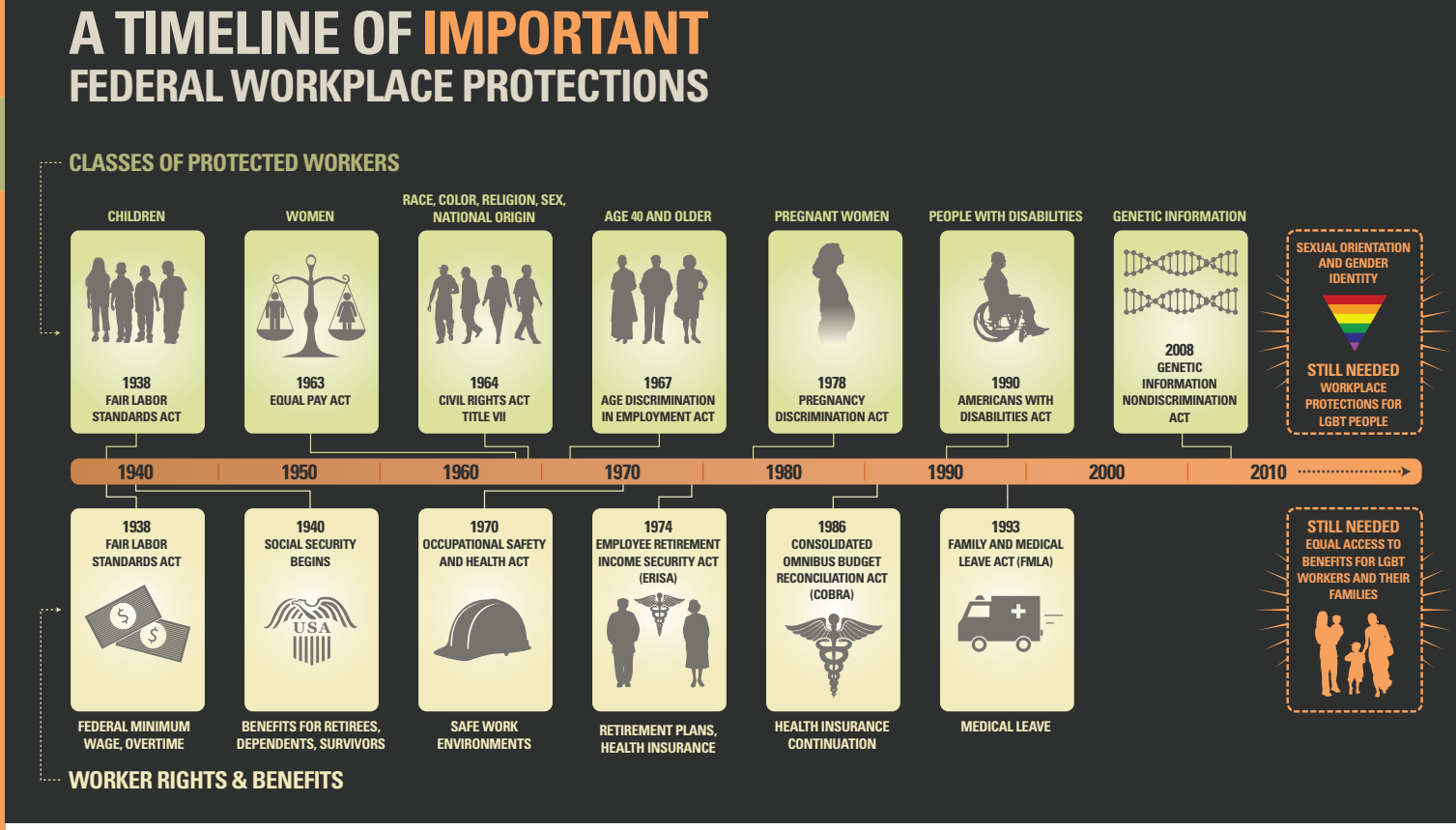
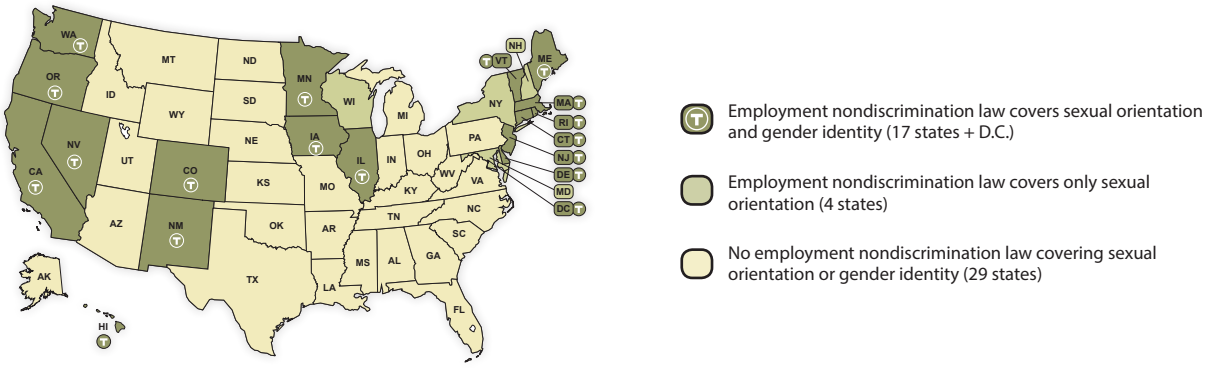


Figure 27: State-Level Nondiscrimination Laws



Source: Movement Advancement Project, Equality Maps, current as of November 1, 2013. For updates see http://lgbtmap.org/equality-maps/employment_non_discrimination_laws.

support for such laws (a recent poll found 79% public approval for such protections). Nevertheless, transgender workers can take heart in a 2012 opinion issued by the Equal Employment Opportunity Commission (EEOC) in *Macy v. Holder*. In this case, the EEOC found that discrimination based on transgender status falls under prohibitions against sex-based discrimination within Title VII of the Civil Rights Act. EEOC decisions apply to public and private employers nationwide, and are given some deference when considered by federal courts, though they are only binding on the federal government. A federal legislative solution that explicitly provides nondiscrimination protections based on both sexual orientation and gender identity/expression is critical for creating clear national standards.

In addition to the general lack of explicit federal protections, only 17 states and the District of Columbia have expanded their laws to include explicit nondiscrimination protections for workers based on their gender identity/expression, while 21 states and the District of Columbia explicitly prohibit discrimination based on sexual orientation (see *Figure 27*).[110]

In the absence of LGBT-inclusive federal and state workplace laws, many cities and counties have passed their own nondiscrimination ordinances.[111] In many

communities across the country, comprehensive local ordinances provide the sole source of legal protection for LGBT municipal employees, LGBT employees of municipal contractors and/or LGBT employees of local private employers.[i]

The cumulative effect of this patchwork of legal protections is that LGBT workers—regardless of race—may be unfairly refused employment, harassed at work, or fired simply for being LGBT. And since LGBT workers of color may be at greater risk for experiencing employment discrimination based on sexual orientation and gender identity, they are left particularly vulnerable and without legal recourse. If an employer who is racially biased fires an LGBT worker but cites the worker's sexual orientation as the reason, that worker has little recourse.

Barriers to Filing Complaints

When workers experience discrimination at work, even when they have recourse through nondiscrimination laws, they face substantial barriers to filing complaints.

Unless a worker has explicit protections under state law, the EEOC is the first stop when an LGBT worker of color has experienced discrimination based on race, national origin or sex/gender identity. Workers can only file a private lawsuit in court if they have been unsuccessful in resolving their claim through the EEOC. There are strict time requirements for reporting incidents of discrimination that can be difficult to meet. Workers who have been discriminated against often need time to work up the courage to file a complaint, particularly when doing so many result in retaliation and a long, extensive legal process. These concerns are legitimate given that nearly one in four complaints filed under Title VII includes a claim of retaliation.[112] The EEOC has received a growing number of complaints, and there is currently a case backlog, which can result in a six-to-nine-month wait before the EEOC begins investigation of a complaint.

Adding to these challenges, a 2013 U.S. Supreme Court decision in *Vance v. Ball State* made it harder for workers to bring hostile work environment cases against their employers under Title VII. The Court narrowed the definition of "supervisor" to those individuals who have the power take "tangible employment action," such as hiring or firing an employee, rather than a broader definition including individuals who can set hours or daily work assignments for workers.[113] An employee who is discriminated against at work by a co-worker who does not meet this narrowed definition, but who may still have day-to-day control over an employee's work, must now prove that her employer was negligent in allowing the harassment to occur. As a result, as Justice Ginsburg noted in her dissenting opinion, "the Court embraces a position that relieves scores of employers of responsibility for the behavior of the supervisors they employ."[114]

Additionally, many workers have multiple identities, and these multiple identities are often at the center of workplace experiences of discrimination. When filing a complaint or seeking recourse through the courts, LGBT workers of color may not be able to distill down the harassment they have faced at work to either race or sex-based discrimination.[115] The experiences of LGBT workers of color may, rather, be "intersectional." A 2011 study found that workers who filed intersectional claims were only half as likely to win their cases as were workers who filed a complaint alleging just one basis of discrimination.[116] Until there are explicit federal protections for sexual orientation and gender identity/expression, it is possible that federal courts may dismiss complaints of employment discrimination made by LGBT people of color as being solely based on these unprotected categories as opposed to being intertwined with discrimination based on race or national origin.

Lack of Mentorship and On-the-Job Support

LGBT workers of color may have trouble advancing at work or may find a lack of support that leads them to leave an organization because of the simple fact that there is no one in the workplace who can mentor them, act as a sponsor and advocate for them, or serve as a role model. Very few leaders within organizations are people of color, let alone openly LGBT people of color. For example, of Fortune 500 CEOs, fewer than 5% are people of color, and there are currently no openly LGBT CEOs of Fortune 500 companies.[117] And, given the risks associated with coming out in many states, LGBT people of color in senior management or leadership positions may not be open about their sexual orientation or gender identity out of fear of discrimination or the effect it might have on possible job advancement in the future.

This lack of visible leadership at the top of organizations—and throughout organizations—has serious consequences for LGBT people of color at work. Several studies of university faculty, for example, have

[i] For employees in states with state-level protections, local ordinances may also expand avenues for filing complaints to include local enforcement offices.

Rosa's Story: One or the Other? Finding a Way to Be All of Myself at Work



Growing up, I only knew white people who were gay—that's it. So, when I came out as queer in college, I didn't know what it meant to be a queer Latina or if there were any other LGBT Latinos. Would I have to only be "out" in LGBT spaces and not talk about my experiences as a Latina in LGBT spaces?

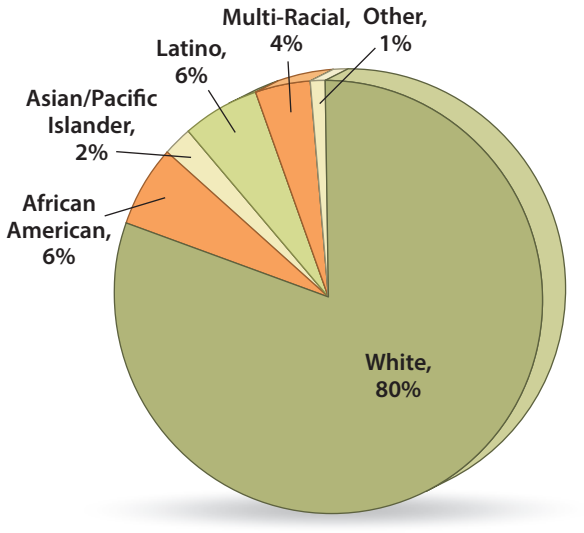
I went to a Catholic university, and one of my mentors was an out Latina lesbian. She was lifesaving as I went through the coming-out process. She was living proof that I could be "brown and queer." I wasn't alone, and I didn't have to choose between my identities.

When I finished college and started working, I found it very difficult to be open about my multiple identities – being Latina and being out as a queer person. For a long time, I worked at a Midwestern college's multicultural office. When I was at work, I felt like I had to be Latina first, and then a queer person. I needed to be a mentor and support for other students of color on campus. When the university opened an LGBTQ office, LGBTQ students of color still came to me in the multicultural office for support and resources. I guess the students were struggling like I was with how to be "both." It is so rare and powerful to find someone who is queer and a person of color. But when I was working in the multicultural office, I still felt like I was suppressing a part of myself when I went to work, and I kept wondering if I could find a job where I could live all of my identities together.

It hasn't been easy, especially when the economy crashed. There are a lot of factors to consider. Could I find a position where I could bring my whole self to work? Could I be out as a queer person and not be marginalized as a Latina? And how would I negotiate the practical, day-to-day details of work, like putting my partner, who was in grad school, on my health insurance plan? I'm very lucky because I have been able to find meaningful work, where I can be all of myself at work. I don't have to choose one part over the other.

—Rosa Yadira Ortiz

Figure 28: Leadership of LGBT Employee Resource Groups
By Race/Ethnicity



Source: Out & Equal. "Creating a True Rainbow in LGBT ERGS." February 2013. http://outandequal.org/training/towncallslides/2013FebTCRainbow.pdf.

found that a key culprit in the low number of women-of-color faculty is the lack of mentorship opportunities—women had a difficult time navigating the politics and complexities of their workplaces without mentors to help guide them. In fact, only 58% of women-of-color faculty had mentors compared to 78% of white men.[118]

Given the ways in which professional networks are increasingly powerful in finding new jobs and career advancement, the lack of LGBT people of color in leadership roles within organizations will continue to result in challenges for younger and more junior LGBT workers of color. While these workers can certainly be mentored by other individuals—regardless of their race, ethnicity, sexual orientation or gender identity/expression—being both LGBT and a person of color results in unique experiences at work. Mentorship and other career development programs designed for all employees, or even solely for LGBT people or workers of color, may not take into account the true needs and experiences of LGBT workers of color.

Helping LGBT People of Color Start Their Own Businesses

Like other workers, many LGBT people of color aspire to own their own businesses. For some LGBT workers of color, the decision to open a business may be driven by past experiences of employment discrimination and the cumulative effect of being excluded, treated unfairly, and undervalued at work as a result of their sexual orientation, gender identity/expression and/or race. For other LGBT workers of color, the decision stems more from a desire to be one's own boss and create something from scratch.

Unfortunately, starting a new business can be especially challenging for many LGBT people of color, particularly because of the difficulties in obtaining the capital—or starting funds—needed to grow a business. As described throughout this report, LGBT people of color typically make less than white LGBT people and data suggest that they may make less than their non-LGBT peers of color. As a result, LGBT people of color may have lower personal net worth to draw upon to start a business. This is certainly true for people of color compared to white people; in 2009, the median wealth for white families was $113,149 compared to just $6,325 for Latino families and $5,677 for black families.[119] Finally, LGBT people of color may have less access to financial support from family or friends—either as a result of growing racial inequality or because their relationships with family have been strained as a result of being LGBT.

Research finds that minority-started businesses are more likely to face higher borrowing costs, receive smaller loans and have loan applicants rejected than white business owners.[120] While some of the challenges in obtaining business loans may be linked to the credit issues discussed earlier, even when controlling for credit, minority business owners are less likely to receive capital through banks or other lenders.

Several innovative programs have emerged in recent years to help support LGBT people of color as entrepreneurs. Some people, for example, are turning to "crowdfunding," where an entrepreneur can collect small amounts of money from a large pool of investors from social networks and beyond.

In 2013, the National Black Justice Coalition joined forces with the Small Business Administration, the National Gay & Lesbian Chamber of Commerce and *Black Enterprise* magazine in an effort to promote entrepreneurship within the LGBT community across the U.S. The program, called "Many Faces, One Dream," provides LGBT people, many of whom are people of color, with training on starting a business as well as tips for existing business owners on ways to expand and grow their businesses.

MANY FACES ONE DREAM · BLACK ENTERPRISE · National Black Justice Coalition NBJC.org · SBA U.S. Small Business Administration · nglcc National Gay & Lesbian Chamber of Commerce

Furthermore, even when an organization has an employee resource group for LGBT workers, it is usually the case that the group's leadership and many of the members are white (see *Figure 28* on the previous page). This may explain why LGBT workers of color are far more likely to belong to an employee resource group focused on race/ethnicity topics at work rather than one devoted to LGBT issues; 81% of African American respondents were involved an employee resource group designed for African American employees rather than the LGBT-focused group.

Kristy's Story: Lesbian Mom of Three Boys Forced to Leave Hostile Workplace for Unemployment Line



When I came out, I was ready to live an authentic life as a lesbian Latina mother of three boys. What I wasn't prepared for was the 1-2-3 combination of a brutal child custody battle fighting for my rights as a mother, being disowned by my family, and being harassed and then terminated for no reason from my new job.

In early 2011, I took a corporate "temp-to-perm" contract job working as a contract manager for a large healthcare company in San Diego. The job was supposed to be temporary for the first 90 days, and then become full-time permanent employment with benefits after that. Everything was going fine and my performance evaluation was perfect, until a single conversation one day changed everything.

Linda, a coworker, was making small talk while we ate lunch together and said, "Oh, you have a wedding ring, what does your husband do?" Determined to be open, I told her, "I don't have a husband, I have a girlfriend, and we've been together for six years and are raising three kids." I continued to chat with my coworker but I couldn't help but notice the surprise and then the look of disgust from one of the supervisors who overheard the conversation.

Immediately everything changed. The dirty looks and whispering began when I walked in the door every morning. I stopped being invited to team get-togethers outside of work. I was suddenly singled out for wearing the same clothing to work as other women wore with no problems.

I desperately needed this job and the benefits that would come with permanent work, so I tried to let it slide, but some days, the anxiety would get the best of me and I'd end up physically ill and crying for hours at home. I finally worked up the courage to talk to my supervisor, who basically denied that it was happening, so then I went to HR. They said that they would address it, but that just didn't happen.

Three, four, five months rolled by and every time I asked about becoming a permanent employee, I was told, "We'll get back to you." It was taking a toll on my health, so finally I went to management and asked, "Am I going to move up to permanent? I need to know."

Long story short, the answer was "No." They were just waiting to let me know so it didn't look as bad. When the six-month contract came to an end, they raised non-existent performance issues and even questioned my health, and then said that we were done. Since I technically worked for a temporary agency, the law didn't protect me from discrimination by the company directly and there was nothing I could do. I'm now unemployed, recovering from the abusive work environment, and once again trying to find a job with benefits so that I can provide for my boys.

—Kristy Salazar, CA

Lack of Legal Work Authorization for LGBT Immigrants

The unique challenges facing LGBT workers of color when it comes to finding, getting and keeping good jobs can become even more onerous if those workers are immigrants. LGBT immigrants who lack legal work authorization are at a special disadvantage, making employment opportunities limited and risky.

It is estimated that there are approximately 267,000 LGBT individuals who are in the U.S. without legal authorization. These LGBT undocumented immigrants are more likely to be male (67%) and younger (49% under the age of 30) than the broader population. Virtually all are people of color: 71% identify as Latino, 15% as Asian or Pacific Islander and 6% as black.[121] These immigrants face multiple forms of discrimination and are at a distinct disadvantage in the U.S job market—for being undocumented, people of color, or LGBT.

Many undocumented workers have few options aside from minimum-wage jobs and jobs that do not provide any benefits. They may be afraid to speak up when they see or experience legal violations, such as unsafe working conditions or unfair wages, out of fear of being deported.[122] And even when an LGBT undocumented worker works in a state with legal protections prohibiting discrimination based on sexual orientation or gender identity/expression, or they experience race- or national origin-based discrimination prohibited by federal law, their undocumented status may dissuade them from filing a complaint against an employer out of fear of deportation. It is estimated that 85% of undocumented people reported that they didn't receive overtime pay to which they were entitled.[123]

In 2002, the Supreme Court ruled that undocumented immigrants who were fired for participating in union organizing activities were not entitled to have their jobs back, nor could they receive back pay, even though they were illegally fired.[124] This ruling, along with similar lower court rulings, has created a situation in which undocumented immigrants may be unprotected by existing laws.

Additionally, some immigrants may have limited English proficiency. This can limit the job opportunities available to them, even if they have advanced training or skills. Many job training programs and placement programs do not offer services in languages other than English, which means that even when there are supportive services, immigrants may not be able to access the support they need.

Finally, several studies have found that the employment experiences of immigrants vary based on country of origin and race and ethnicity. For example, one study found that immigrants with lighter skin earned, on average, 8-15% more than similarly qualified immigrants with darker skin, which mirrors findings about African American workers with darker skin.[125]

Jorge's Story: Undocumented and Unafraid



My mother has always been my source of strength and hope, even in those moments when she didn't understand what having a gay son meant. But, her love for me is bigger than any confusion or fear. She's fabulous.

I was five or six years old when I realized that I was queer. Of course, I didn't understand what that meant at that age. My father was oppressive. He always shouted at me to not walk, talk, scream or play like "that." But, my mother always stepped in to defend me and encouraged me to continue to express myself.

Since my mother sought out better opportunities for her children, she alone moved the five of us from Mexico to California when I was ten years old. I was excited! I truly enjoyed school, quickly learned English and adapted to the new culture. I also established a special bond with my fifth-grade teacher – and actually came out to her the summer before entering high school. While we were eating ice cream, the words just slipped nervously off my tongue, "Miss Spiak, I am gay." She smiled and responded, "I knew it." We both hugged and continued on with our ice cream.

By high school, I fully acknowledged that I was gay. I wanted to share that with my mother, but I was afraid of losing her...like my father.

However, one day I felt the urge to tell her. We were in the car and she turned off the music. Like a scene in a novela, my mother gave me a heartfelt, serious look. She innocently asked me if I liked boys or girls. For a second, I considered lying and telling her I liked girls. Instead, I looked down and told her I liked boys. SILENCE! She pulled into the nearest parking lot and told me to get out the car. She then got out of the car, gave me the most memorable hug and whispered in my ear, "no se mucho del tema pero te amo y te apoyo" (I don't know much about, but I love you and support you).

One closet door down, one more to go.

Some of us come out of the closet twice. And, it was the undocumented closet door that was the most challenging to break down. When I was applying to college with solid grades and a great resume, everything blurred when I came to the portion that screamed at me for my Social Security number. I knew I didn't have one, but I hoped that some magical incident could change this and I would be provided with one when I got home. There was no magic anywhere, just reality. I was broken and disillusioned.

My first three years of undergrad were tough and painful. I was working two jobs to pay for my tuition, and one semester before graduation day, I almost gave up. Then everything changed. I met a friend who took me to an Orange County Dream Team meeting. For the first time, I listened to folks sharing their undocumented student stories. I was inspired. It was that space and the members that gave me the courage to come out as undocumented. From that point on, it has been a journey of self-empowerment, growth and reclaiming. I realized that I need to be vocal and intentional about my identity as queer and undocumented, especially in the youth-led movement.

Source: Adapted from Jorge Gutierrez. "Jorge: Undocumented and Unafraid, Queer and Unashamed." Cuéntame. http://www.mycuentame.org/jorge_undocumented_and_unafraid_queer_and_unashamed (accessed September 26, 2013).

Recommendations

A series of common-sense solutions would help ensure that LGBT workers of color face fewer barriers to finding and keeping good jobs—and succeeding once employed. As detailed in the table below, solutions include ending the improper use of background checks, passing inclusive nondiscrimination laws and ordinances, fostering diverse workplaces, and ensuring effective and swift processing of discrimination claims.

Recommendations to Eliminate or Reduce Bias and Discrimination Against LGBT Workers of Color		Page References for Further Detail Found in the "A Broken Bargain" Report
End Improper Use of Criminal and Credit Background Checks		
States	States should pass laws, often called "Ban the Box" legislation, limiting the use of credit and criminal background checks in employment decisions to particular industries or positions. • California's law passed in 2011 provides a workable model for limiting the use of credit checks.[126] • In May 2012, Massachusetts passed legislation that provides workable limitations on the use of criminal background checks in employment.[127]	N/A
Employers	• Employers should eliminate policies and practices that exclude people from consideration for employment based on a criminal record or poor credit unless such checks are strictly necessary for the position. • Employers should train managers, hiring officials and decision makers about ways to thoughtfully employ background checks during the hiring process. • For more information, employers should consult the 2012 EEOC guidance.[128]	N/A
Adopt Nondiscrimination Laws and Policies		
Federal Government	Congress should pass federal employment nondiscrimination legislation such as the Employment Non-Discrimination Act (ENDA) to ban public and private employment discrimination nationwide on the basis of gender identity/expression and sexual orientation.	page 45
Federal Government	The President should mandate that federal contractors prohibit discrimination on the basis of gender identity/expression and sexual orientation.	page 45
Federal Government	The federal government and its agencies should clarify that existing executive orders that protect workers based on sex also include protections for transgender employees.	page 45
State/Local Government	State and local lawmakers should ban employment discrimination in states/municipalities without current protections for gender identity/expression and/or sexual orientation.	page 46
States	State governors should mandate that state and local government employers and contractors prohibit discrimination on the basis of gender identity/expression and sexual orientation.	page 46
Employers	Employers should send a clear message that all workplace discrimination is prohibited at their workplaces through employer-based LGBT-inclusive nondiscrimination policies and procedures designed to significantly reduce hiring bias, foster welcoming and inclusive work environments, and reduce discrimination.	page 46

Recommendations to Eliminate or Reduce Bias and Discrimination Against LGBT Workers of Color		Page References for Further Detail Found in the "A Broken Bargain" Report
Ensure Effective and Swift Discrimination Claims Processing		
Federal Government	The federal government and its agencies should ensure efficient case processing by the EEOC.	page 46
State/Local Government	State and local lawmakers should ensure that nondiscrimination laws include mechanisms for swift and effective claims processing.	page 47
Employers	Employers should ensure there is an effective and responsive grievance system for all employees.	page 48
Ensure Workers Can Access Existing Protections		
Federal Government	Congress should pass legislation addressing the Supreme Court's decision in *Vance v. Ball State* by offering a clear definition of "supervisor" that includes individuals who are in charge of an employee's daily work activities, including hours and job assignments.	N/A
Foster Diverse and Inclusive Workplaces		
Employers	• Employers should dispel myths/stereotypes and increase awareness through workforce diversity training. • Employers should ensure support for transitioning transgender employees. • Employers should encourage employees to voice workplace issues, concerns, and opportunities. • Employers should expand their talent pool by targeting outreach to potential LGBT employees.	pp. 48-49
Employers	Employers should sponsor mentorship programs and employee resource groups through which LGBT workers of color can tap into and grow their professional networks and find more support on the job.	N/A
Increase Data Collection on LGBT Workers		
Federal/ State Government	The federal government and its agencies, as well as state governments, should expand research and data collection on LGBT workers.	pp. 46-47
Pass Immigration Reform Measures That Offer a Path to Legal Status		
Federal Government	Congress should enact comprehensive immigration reform that includes avenues to legal status for undocumented workers already living in the United States.	page 104
Federal Government	All relevant agencies and departments should take immediate action to prevent discrimination against LGBT immigrants.	page 104
Take Action to Help LGBT Workers of Color Secure Good Jobs		
Employers	Employers should utilize traditional, social and ethnic media outlets to notify LGBT workers of color of potential job opportunities.	N/A
Advocates	Community centers and other organizations serving LGBT communities and communities of color should sponsor job fairs that can help connect LGBT workers of color with employers looking to hire. When presented with opportunities for networking and connection that may bypass traditional routes, LGBT workers of color are more likely to be judged for their talents rather than their identities. Community centers and other social service organizations should offer job training workshops and actively recruit LGBT people-of-color participants. Workshops should focus on not only job skills, but also interviewing, negotiation and networking skills that can help workers find and keep good paying jobs. In addition, community centers and other organizations serving LGBT communities and communities of color should hold life skills workshops around financial literacy (e.g. investment, managing budgets, etc).	N/A

OBSTACLE #3: UNEQUAL PAY, BENEFITS AND TAXATION

Once on the job, LGBT workers of color receive unequal pay and unfair access to job-related benefits, leaving them with less to care for themselves and their families—even if they are doing the same jobs and working just as hard as other workers. Plus, workers of color are more likely to work in low-wage jobs lacking fair pay and benefits or opportunities to advance. As shown in the infographic on the next page, LGBT workers of color are more likely to be underpaid than other workers—both because of disparities in earnings based on race and because of their sexual orientation and/or gender identity. Plus, a paycheck isn't the only way that workers are compensated for their work on the job. LGBT workers of color, especially those who live in states where they cannot marry or are denied legal ties to their children, may be unable to access other job benefits that constitute an important part of total compensation, including health insurance, Social Security survivor benefits, and family and medical leave. Finally, LGBT workers of color often pay more in taxes and are unable to access tax relief.

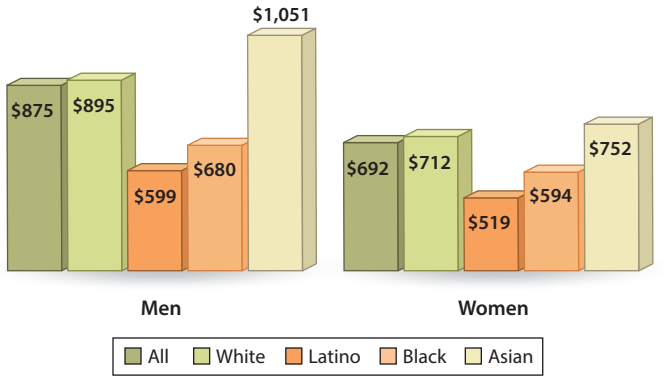
For LGBT workers of color, the consequences of unequal pay and the inability to access important job-related benefits are serious and, in many cases, devastating. Not only do these workers and their families take a significant financial hit, but the unequal treatment they receive can affect their health, their ability to send their children to college, and their ability to retire with the same level of security as other workers in similar jobs and occupations.

Wage Gaps and Penalties

In the United States, wages account for 70% of total compensation for private-sector employees and 65% of total compensation for state and local government employees.[129] U.S. workers rely on their paychecks to cover the costs of transportation, housing expenses, food and clothing, retirement savings and more.

Over time, policymakers have enacted various laws aiming to abolish unfair disparities in pay. The intent of these laws is to ensure that all workers are treated equally when it comes to what they are paid, and that wages are based solely on worker skills, qualifications and performance on the job. To date, however, no federal laws have been passed to address documented pay disparities based on sexual orientation and gender identity/expression. And despite the enactment of laws designed to reduce disparities in pay based on race and sex, wage disparities for people of color and women persist.

Figure 29: Median Weekly Earnings
By Race/Ethnicity



Source: Bureau of Labor Statistics. "Table 2. Median usual weekly earnings of full-time wage and salary workers by selected characteristics, quarterly averages, not seasonally adjusted, Fourth Quarter 2012." January 18, 2013. http://www.bls.gov/news.release/wkyeng.t02.htm.

Although there is little data on the wage penalty for LGBT workers of color specifically, broader population data show that both race and LGBT status affect worker paychecks, meaning the penalties are likely compounded for LGBT workers of color.

Generally, workers of color make less on the job than white people. As shown in *Figure 29*, with the exception of Asian workers, men of color earn less than white men, and women of color earn less than white women (with women in general only earning $0.79 for every $1.00 earned by men). While some of these wage disparities can be explained by occupation and educational attainment, workers of color still earn less even after these factors are taken into consideration (see *Figure 30* on page 43). For example, a 2011 study found that African Americans and Latino people with master's degrees have lifetime earnings that are lower than those of white workers with bachelor's degrees.[130]

Similarly, studies consistently find that sexual orientation and gender identity/expression play a role in workplace wages. For example, gay and bisexual men experience a clear wage penalty,[131] earning between 10% and 32% less than heterosexual men, even when controlling for factors like education, occupation and region of the country.[132] Lesbian and bisexual women actually fare better than heterosexual women, but still experience the gender-based wage gap relative to all men.[133]

UNEQUAL PAY, BENEFITS AND TAXATION

LEAVE LGBT WORKERS OF COLOR WITH FEWER RESOURCES



BARRIERS

WAGE GAPS AND PENALTIES



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LACK OF JOB-RELATED BENEFITS



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A HIGHER TAX BURDEN



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RESULTING IN FEWER RESOURCES FOR WORKERS & FAMILIES



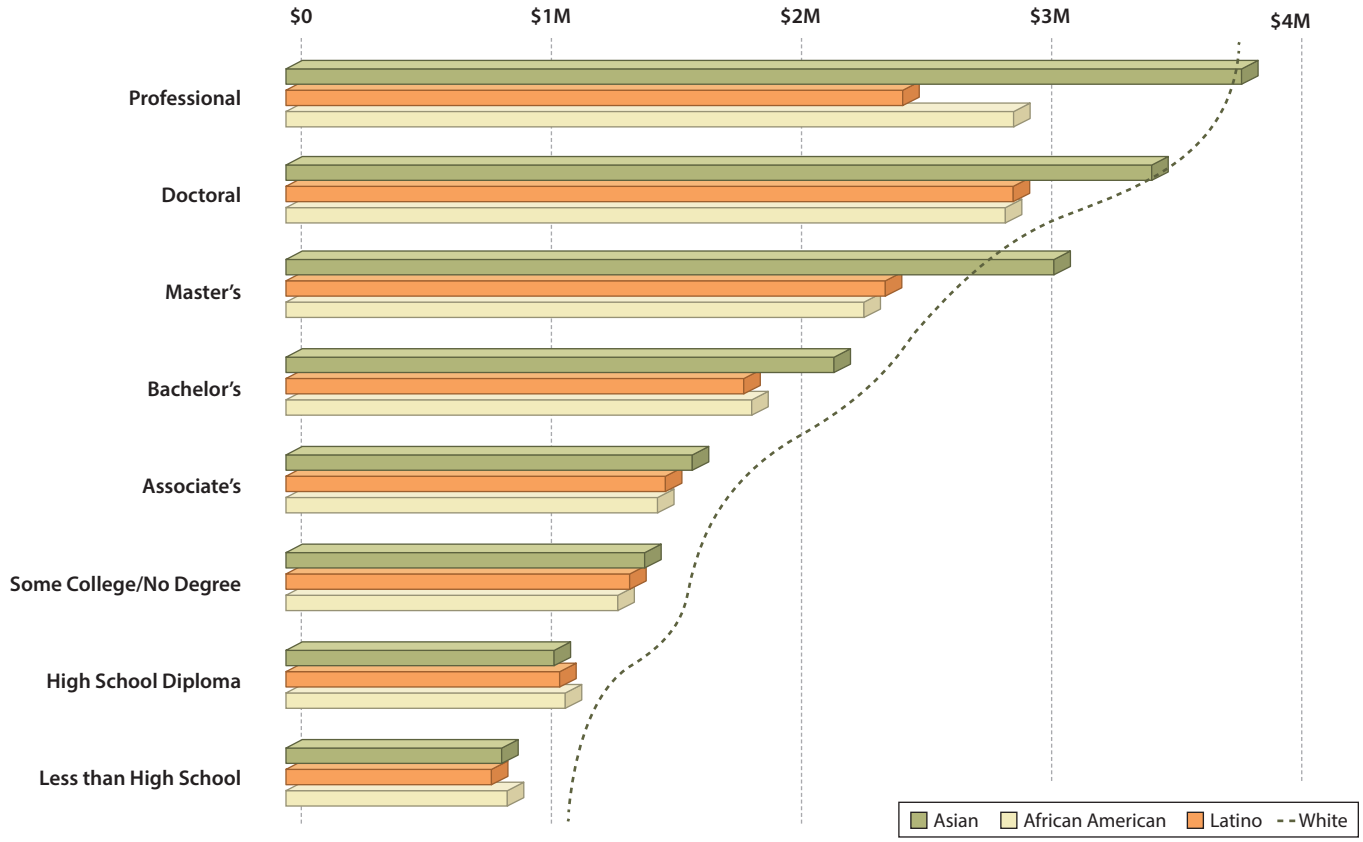


SOLUTIONS

- INCREASE WAGE DISCRIMINATION PROTECTIONS
- RECOGNIZE THE FAMILIES OF LGBT WORKERS AND WORKERS OF COLOR
- IMPROVE AND PROVIDE EQUAL ACCESS TO INDIVIDUAL AND FAMILY BENEFITS
- ADDRESS INCOME TAX INEQUITIES FOR MODERN FAMILIES

Figure 30: Lifetime Earnings By Race/Ethnicity

2009 Dollars



Source: Carnevale, Anthony P., Stephen J. Rose, and Ban Cheah. "The College Payoff: Education, Occupations, Lifetime Earnings." The Georgetown University Center on Education and the Workforce. 2011. http://www9.georgetown.edu/grad/gppi/hpi/cew/pdfs/collegepayoff-complete.pdf (accessed May 13, 2013).

The Post-Recession Economy: A Lack of Good Jobs and More Low-Wage Work

Following the Great Recession and the loss of many mid-range paying jobs, recent gains in employment are concentrated in lower-wage jobs; 60% of job losses during the recession were mid-range jobs, while 58% of the jobs created during the recovery have been low-wage jobs such as retail salespersons, home health aides, personal care aides, nursing aides, cashiers, receptionists, childcare workers, janitors and cleaners.[134] These jobs not only pay very little–between $7.69 and $13.83 an hour–but they rarely provide benefits such as health insurance, paid sick leave, or retirement savings. Additionally, domestic workers and agricultural workers are excluded from the National Labor Relations Act, which protects workers' rights to organize and engage in collective bargaining.

Workers of color are disproportionately concentrated in low-wage jobs. People of color comprise 42% of minimum-wage earners but just 32% of the total workforce.[135] Nationally, more than half (57%) of black workers work in low-wage jobs.[136] In California, a similar percentage (57%) of low-wage workers are Latino, despite comprising only 32% of all workers in that state.[137]

And while education is often a predictor of income, the educational attainment of low-wage workers has increased over the past 30 years. For example, in 1979, 40% of low-wage earners lacked a high school degree, whereas in 2011, only 20% of low-wage earners had not graduated from high school.[138] And, the percent of low-wage earners with a college degree nearly doubled during this period; in 2011, 10% of low-wage earners had a college degrees.

For LGBT workers of color, it can be difficult to separate the impact of gender, gender identity/expression, sexual orientation and race on workplace wages. For example, if a black lesbian is earning less than a white straight woman in a similar job, it's often hard to say whether this is because of her sexual orientation or her race, or perhaps a combination of the two.

Regardless of the precise cause of these wage disparities, they can have an enormous impact on the incomes of LGBT workers of color, resulting in lower overall household incomes and an increased likelihood that these workers and their families will live in poverty. Furthermore, these inequities add up over the lifetimes of LGBT workers and can result in considerable financial challenges during their later years.

Lack of Job-Related Benefits

For most workers in the United States, a paycheck is only one of many important benefits that come with having a job. Workers also rely on other work-related benefits to stay healthy and ensure the health and well-being of their families. These benefits include health insurance, vacation and sick days, family leave, employer-supported retirement plans, and Social Security benefits. Among civilian workers, almost one-third of compensation (31%) comes from these non-wage benefits, including health insurance (8.5%), retirement savings plans (4.6%) and paid leave (6.9%).[139]

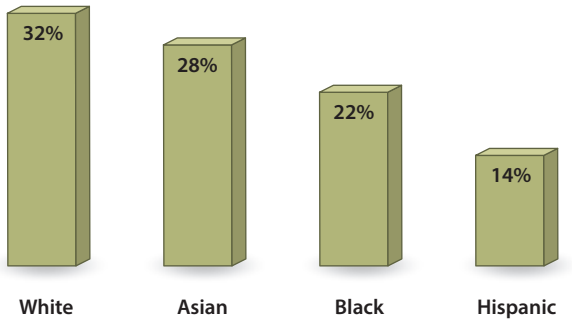
These benefits are often a necessary part of overall compensation for employees who are juggling work and family responsibilities. Nine out of 10 workers (89%) report that benefits are important when choosing a job, and six out of 10 workers (58%) say that health insurance is the most important benefit.[140] Finally, access to retirement benefits—both employer-provided benefits and those available through Social Security—is crucial to helping families save for retirement or carry on after the unexpected death or disability of a family member.

Benefits for families of LGBT workers of color. When it comes to family benefits, LGBT workers of color face three challenges that threaten the financial security and the health of workers and their families:

- **First, the jobs occupied by workers of color are less likely to provide a family-supporting wage and benefits.** Workers of color are less likely than white people to work in jobs that pay a wage that can support a worker and his or her family, or in jobs that offer reasonable benefits, particularly health and retirement benefits. For example, a 2008 study found that 32% of white workers had such jobs, compared to just 14% of Hispanic, 22% of black and 28% of Asian workers (see *Figure 31*).[i,141] This trend is due, in large part, to the fact that workers of color are more likely to work in jobs that pay the minimum wage. These jobs are the least likely of all jobs to come with benefits such as health insurance, paid sick days, or retirement-saving opportunities. Roughly 40% of minimum-wage earners are black or Latino, and 61% are women.[142]

- **Second, eligibility for benefits is usually designed around traditional family structures—which often do not reflect the reality of LGBT families of color.** In order for workers and their families to access most job-related benefits, couples have to be married, and workers must have a legal parent-child relationship with their children. These narrow eligibility requirements do not recognize unmarried couples or those who are raising children but who lack a legal relationship. Both LGBT people and people of color are more likely to be unmarried. And, black and Latino LGBT people are more likely to live in states lacking marriage equality than white LGBT people.[143] Both groups also are more likely than the population as a whole to be raising a child or to be responsible for a family member who is not legally related to the worker.

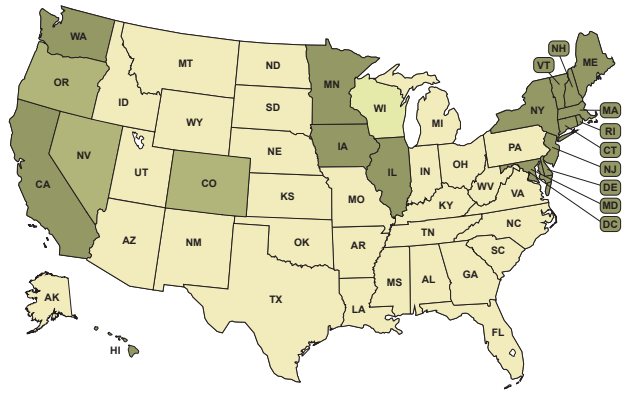
Figure 31: Percent of Workers in Jobs with Health and Retirement Benefits



Source: Austin, Algernon. "Getting Good Jobs to America's People of Color." *Economic Policy Institute*. November 19, 2009. http://www.epi.org/page/-/pdf/bp250.pdf (accessed May 13, 2013).

[i] Data about access to these types of benefits for workers of color, LGBT people and LGBT people of color will be discussed in detail in the sections that follow.

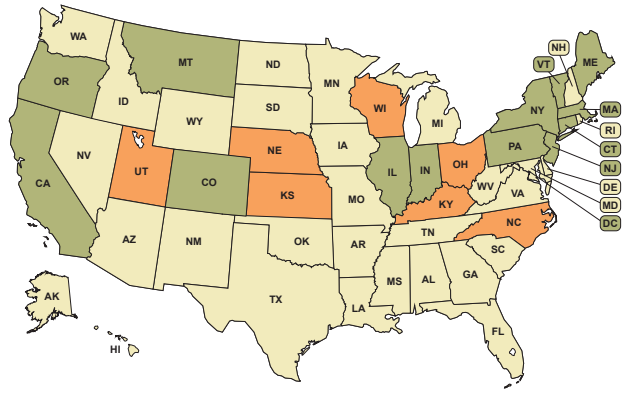
Figure 32: State Marriage and Relationship Recognition Laws



- Marriage equality for same-sex couples (16 states + D.C.)
- Comprehensive civil union or domestic partnership law (3 states + D.C.)
- Limited relationship recognition law (1 state)
- No legal recognition for same-sex couples (30 states)

Source: Movement Advancement Project, Equality Maps, current as of November 1, 2013. For updates see http://lgbtmap.org/equality-maps/marriage_relationship_laws. This map reflects the passage of marriage equality legislation in Illinois by the legislature. As of November 14, 2013, the governor had not signed the legislation but indicated his intent to do so on November 20, 2013.

Figure 33: States With Second-Parent Adoption Laws That Enable Two Same-Sex Parents to be Legal Parents



- LGBT parents can petition for second-parent adoption statewide (13 states + D.C.)
- Availability is uncertain (30 states)
- Same-sex couples face legal restrictions when petitioning for second-parent adoption (7 states)

Source: Movement Advancement Project, Equality Maps, current as of November 1, 2013. For updates see http://www.lgbtmap.org/equality-maps/foster_and_adoption_laws.

[k] Because some parenting rights flow from or are tied to marriage, LGBT parents may be legal strangers to their children. For a detailed discussion of how family and parenting law make it harder for LGBT parents to form legal ties to their children, see Movement Advancement Project, Family Equality Council and Center for American Progress. "Securing Legal Ties for Children Living in LGBT Families." July 2012. http://www.lgbtmap.org/file/securing-legal-ties.pdf (accessed February 28, 2013).

[l] For a detailed discussion of how family and parenting law make it harder for LGBT parents to form legal ties to their children, see Movement Advancement Project, Family Equality Council and Center for American Progress. "Securing Legal Ties for Children Living in LGBT Families." July 2012. http://www.lgbtmap.org/file/securing-legal-ties.pdf (accessed February 28, 2013).

- **Third, the law often prevents LGBT workers and those who are raising legally unrelated children from meeting the legal requirements for accessing family benefits.** Although a recent Supreme Court decision requires the federal government to recognize legally married same-sex couples in the same manner as legally married opposite-sex couples, 34 states still prevent same-sex couples from marrying (see *Figure 32*). Similarly, the large majority of states have no mechanisms for non-biological LGBT parents to create legal ties to the children they are raising (see *Figure 33*).[k,144] For example, same-sex couples are often denied access to joint or stepparent adoption, and the partner of a lesbian woman using donor insemination may not be considered a legal parent under state law.[l] Similarly, state law often does not recognize those who raise children who are not their own, such as a close family friend raising the child of a parent who is incarcerated. In short, workers must be married and legal parents to their children to access many family-related benefits and tax credits, but LGBT workers are prevented from marrying or becoming legal parents of their children in most states.

Unequal Access to Health Insurance Benefits

The United States is one of the few industrialized nations that does not provide universal healthcare. Among working-age Americans (ages 25-64), nearly two-thirds (62%) receive health insurance through an employer, and more than half of these workers choose coverage that includes at least one family member.[145] Although many employers offer health benefits, no federal or state law requires that they do so. However, the Affordable Care Act will extend tax credits to employers that offer health benefits beginning in 2015, and will require employers with 50 or more full-time workers that do not provide health insurance to their employees to pay an annual penalty.

Individual Health Insurance Coverage

Problem: LGBT workers of color have lower rates of health insurance, and transgender employees have inadequate coverage.

About the Benefit. Employer-provided individual health insurance coverage provides access to basic and condition-related care to individual employees.

Inequities for LGBT Workers of Color. When an employer offers health insurance to individual workers, the employer cannot systematically exclude individual LGBT workers nor workers of color from its health coverage. However, LGBT people and people of color still are much more likely to be uninsured than other workers.

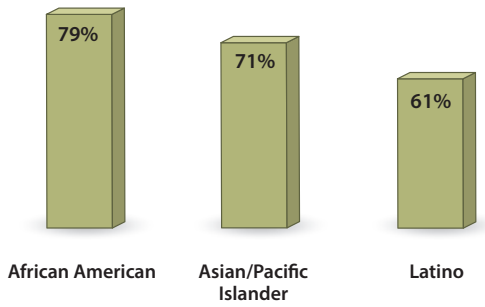
Data from Gallup show that 61% of Latino LGBT adults had health insurance in 2012, compared to 71% of Asian and Pacific Islander LGBT people, and 79% of black LGBT people (see *Figure 34*).[146] Among transgender workers of color, black workers are the least likely to have health insurance (see *Figure 35*).

Again, this mirrors broader societal trends. Looking at people of color, 79% of black people have health insurance compared to 69% of Latino people, 82% of Asian people and 88% of white people.[147] An important reason for the disparity is that workers of color are more likely to work in low-wage jobs that do not provide benefits. In addition, the fact that they earn less, on average, than white workers means that people of color may be unable to afford the employee share of health insurance premiums if they work for an employer that does provide coverage. As a result, white workers are far more likely have employer-sponsored health insurance than are black or Latino workers (see *Figure 36*).

Similarly, research shows that LGBT adults generally are less likely to have health insurance than their non-LGBT counterparts, with transgender workers having particularly low rates of health insurance (see *Figure 37* on the next page). Transgender workers also are likely to face denials of coverage, higher premiums and exclusions for both basic and transition-related care. Insurers are able to limit coverage for transgender people by creating broad exclusions for anyone with a history of hormone use or gender dysphoria. Insurance companies' classifications of members as male or female can also result in inappropriate denial of gender-specific care. For example, if a transgender man submits paperwork as "male" with his insurance provider, he may be rejected for gynecological care for ovarian cancer. Finally, many insurers still exclude coverage for transition-related care, even when they cover the exact same services (such as mastectomies or hormone replacement therapy) for non-transgender people under other circumstances.

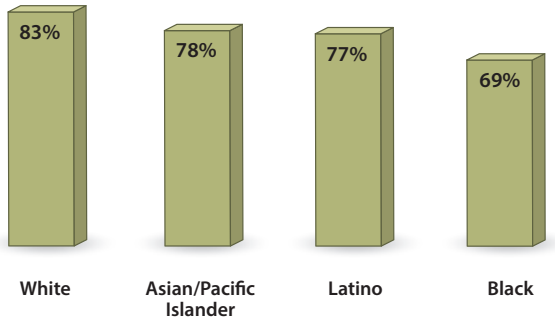
Impact on LGBT Workers of Color. When lack of health insurance is coupled with the daily stress of racial/ethnic and LGBT-related stigma and discrimination, it

Figure 34: Percent of LGBT Adults with Health Insurance
By Race/Ethnicity



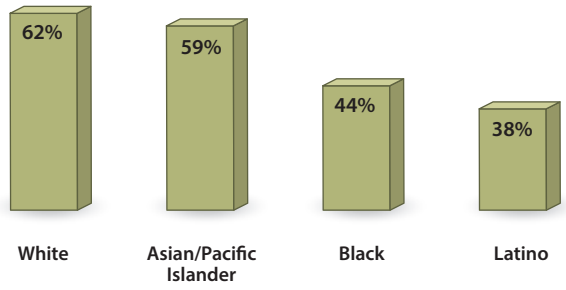
Source: Kastanis, Angeliki and Gary J. Gates. "LGBT Asian and Pacific Islander Individuals and Same-Sex Couples." *The Williams Institute*. September 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-2010-API-Final.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT African-American Individuals and African-American Same-Sex Couples." *The Williams Institute*. October 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-AFAMER-Oct-2013.pdf; Kastanis, Angeliki and Gary J. Gates. "LGBT Latino/a Individuals and Latino/a Same-Sex Couples." *The Williams Institute*. October 2013. http://williamsinstitute.law.ucla.edu/wp-content/uploads/Census-2010-Latino-Final.pdf.

Figure 35: Percent of Transgender Adults with Health Insurance
By Race/Ethnicity



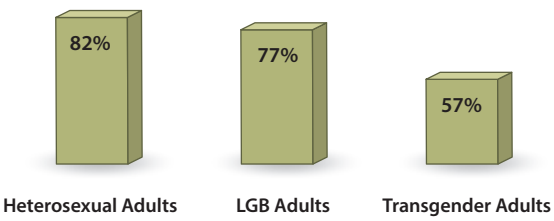
Source: Grant, Jamie M., Lisa A. Mottet, Justin Tanis, Jack Harrison, Jody L. Herman, and Mara Keisling. *Injustice At Every Turn: A Report of the National Transgender Discrimination Survey*. Washington: National Center for Transgender Equality and National Gay and Lesbian Task Force, 2011. http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.

Figure 36: Percent of Adults with Health Insurance Through an Employer
By Race/Ethnicity



Source: National Council of La Raza. "Fast Facts: Latinos and Health Care." January 2012. http://www.nclr.org/images/uploads/publications/FastFacts_LatinosandHealthCare2012.pdf.

Figure 37: Percent of Adults with Health Insurance
By Sexual Orientation and Gender Identity



Source: Krehely, Jeff. "How to Close the LGBT Health Disparities Gap." *Center for American Progress*. December 21, 2009. http://www.americanprogress.org/issues/lgbt/report/2009/12/21/7048/how-to-close-the-lgbt-health-disparities-gap/.

Figure 38: Percent of Women Who Have Recently Had a Mammogram
By Race and Sexual Orientation



Source: Krehely, Jeff. "How to Close the LGBT Health Disparities Gap: Disparities by Race and Ethnicity." Center for American Progress. December 21, 2009. http://www.americanprogress.org/issues/2009/12/pdf/lgbt_health_disparities_race.pdf.

is not surprising that a growing body of research finds that LGBT people, and particularly LGBT people of color, have poorer health outcomes, including higher rates of chronic illnesses[148], greater incidence of psychological distress, and overall poorer health. Among lesbian, gay and bisexual adults, for example, African Americans are the most likely to have diabetes, and Asian/Pacific Islanders are the most likely to report experiencing psychological distress.[149] And because they often lack health insurance, LGBT workers of color are more likely than others to avoid preventive care and treatment that could improve their long-term health. Among the evidence of this is the fact that only 35% of black lesbian and bisexual women have had a mammogram recently, compared to 69% of black heterosexual women (see *Figure 38*).[150] Similarly, when transgender workers are denied needed care, they may forgo necessary treatment or pay for such treatment out of pocket, potentially costing thousands of dollars per year.

Family Health Insurance Coverage

Problem: Employers that offer family health insurance coverage to employees are not required to offer these benefits to LGBT families or other diverse families.

About the Benefit. Employer-provided family health insurance coverage provides access to basic and condition-related care for the spouses, partners and children of employees.

Inequities for LGBT Workers of Color. In general, employers that offer health insurance benefits must do so without discriminating. For example, an employer can't offer family benefits to Asian employees but not black employees. However, no law prevents employers from offering health insurance to married couples and legally recognized children while denying such insurance to unmarried couples, non-legally recognized children, or other family members who do not meet the criteria of a legal spouse or child.

In September 2013, the Department of Labor issued guidance on employee benefit plans and the impact of the Supreme Court decision overturning section 3 of the Defense of Marriage Act (DOMA), which prohibited the federal government from recognizing the legal marriages of same-sex couples. Under the guidance, employees who are part of a same-sex couple legally married in a state that recognizes these marriages must be treated as married and the employee's spouse must be treated as a "spouse" for benefit plans governed by the Employee Retirement Income Security Act of 1974 (ERISA).[m] If the marriage was valid in the state where it was performed or "celebrated," it must be considered valid even if the couple currently lives in a state that does not recognize their marriage (this is often referred to as the "state of celebration" rule).[152] Employers that sponsor self-insured health plans together employ 60% of American workers and are not required to offer benefits to the same-sex spouses of employees. However, they may risk violating state and federal nondiscrimination laws if they offer these benefits to only opposite-sex spouses. Employers that sponsor fully insured health plans must comply with state insurance laws. In most states with marriage

[m] Fully insured employers, or those that buy insurance through health insurance companies, are subject to state health insurance laws. By contrast, self-insured employers forgo buying health insurance through insurance companies and instead pay claims directly. The federal government regulates the activities of self-insured employers under the Employee Retirement Income Security Act of 1974 (ERISA).

equality or other forms of relationship recognition for same-sex couples, legally recognized same-sex couples must be treated the same as married opposite-sex couples under state health insurance law.

Some LGBT workers of color may still find it difficult to receive family-related health benefits because LGBT workers are denied marriage and the ability to create legal parenting ties in most states. Additionally, workers of color are more likely to be caring for a child or other family member to whom they lack a formal legal tie—or to have a partner to whom they are not legally married.

Impact on LGBT Workers of Color. As a result of these inequitable laws, same-sex couples are twice as likely to have only one member of the couple covered by health insurance (17% of same-sex couples compared to only 8% of opposite-sex couples).[153] LGBT families often have two choices: either do without insurance or buy expensive private insurance on the open market, which can cost a family from $5,076 to $7,615 annually.[154] Given the high rates of poverty among LGBT families of color, this expense may be too much, meaning family members go without health insurance altogether, resulting in additional health-related challenges and delayed care. Additionally, because of lack of legal relationships, LGBT-headed households may face barriers to qualifying for assistance programs designed to make healthcare more affordable.

Unequal Access to COBRA

Problem: The families of unmarried LGBT workers are denied equal access to health insurance continuation coverage.

About the Benefit. Under the federal Consolidated Omnibus Budget Reconciliation Act (COBRA), employers with 20 or more employees must offer their workers the opportunity to continue to receive their individual and family health insurance coverage for up to 18 months after a job transition. A worker's family members have independent rights to elect to receive continued health coverage, even if the worker cannot or does not wish the family to receive this coverage (for example, if the worker dies or the spouses divorce).

Inequities for LGBT Workers of Color. Workers of color are less likely to work for employers that offer health insurance; if this is the case, COBRA offers no protection at all. If an employer offers health coverage to legal same-sex spouses of employees, these spouses are eligible for COBRA coverage as a result of the Supreme Court's decision overturning section 3 of the Defense of Marriage Act, regardless of whether they currently reside in a state that recognizes that marriage.[155] In other words, for the purposes of determining whether a same-sex couple is married, COBRA coverage follows the "state of celebration" rule. However, many families of LGBT workers of color may be denied independent COBRA rights since these rights only need to be extended to a worker's legal spouse and dependent children.

Impact on the Families of LGBT Workers of Color. While families of non-LGBT workers can maintain their existing health benefits regardless of the worker's choices and circumstances, LGBT families could lose all coverage if a worker dies. Paying out-of-pocket for private family health insurance can cost from $7,614 to $11,421 for 18 months of coverage.[156] Given the financial stresses that many LGBT families of color experience, this cost may simply be too great and families may go without health coverage entirely.

Unfair Taxation of Family Health Benefits

Problem: LGBT employees and other employees with diverse families pay federal income and payroll taxes on family health benefits and cannot use pre-tax dollars to pay for family health premiums.

About the Benefit. To expand the number of children and adults with health insurance, the federal government allows employees to receive family health insurance as a tax-free benefit. Workers can also pay for the employee portion of family health insurance premiums using pre-tax dollars.

Inequities for LGBT Workers of Color. Federal taxation follows the "state of celebration" rule. In August 2013, the Department of the Treasury and the Internal Revenue Service announced that, given the Supreme Court decision overturning sections of DOMA, same-sex couples who are legally married will be treated as married for federal tax purposes, regardless of whether they reside in a state that recognizes their marriage.[157] As a result, legally married couples will no longer be required to pay additional federal taxes for health benefits. However, if a same-sex couple lives in a state

without marriage or relationship recognition, and is therefore unable to marry, they will still be required to pay state taxes on family health benefits.

When a worker receives health benefits for an unmarried partner, including a civil union partner or domestic partner, and/or children for whom the worker is not a legal parent, the family faces a double tax penalty. First, the value of the benefits is added to the employee's taxable income if the unmarried partner is not a legal dependent of the employee (even though the employee does not receive any additional salary). This means the worker pays both income and payroll (FICA) tax on these benefits. Second, workers who receive health benefits are often required to pay a portion of the total cost via an employee premium. This cost is deducted from pre-tax income for employees who are married and who have legal ties to their children. Since LGBT workers of color are disproportionately likely to be unmarried or to lack legal ties to their children, they must pay any employee family premiums with after-tax dollars.

Impact on LGBT Workers of Color and Their Families. These tax penalties can be extremely costly for workers with modern family structures. Consider an LGBT worker of color earning $50,000 annually who has a partner and two children covered under the employee's health insurance. An analysis by the Movement Advancement Project shows that, due to unfair taxation, the LGBT worker of color who receives these family benefits will pay $3,200 more in taxes than a married worker with two biological children.[158]

Unequal Access to Family Pre-Tax Healthcare Savings Plans

Problem: LGBT workers often cannot use pre-tax savings to pay for out-of-pocket health expenditures for their families.

About the Benefit. Health Flexible Spending Arrangements (FSAs) and Health Savings Accounts (HSAs) are programs that allow workers to use pre-federal-tax dollars to pay for out-of-pocket health-related expenses for themselves, their spouse and their eligible dependents. Dependent Care Assistance Programs (DCAPs) allow employees to pay for up to $5,000 in dependent care expenses using pre-tax dollars.

Inequities for LGBT Workers of Color. FSAs, HSAs and DCAPs cannot be used by LGBT workers of color to pay for the health-related expenses of an unmarried partner; the same goes for the non-dependent children of a partner. When workers lack legal ties to their partner and children, they also cannot use pre-tax dollars to pay for family copayments, deductibles and other out-of-pocket costs such as eyeglasses. Additionally, workers cannot transfer FSA and HSA funds to an unmarried partner tax-free upon the worker's death. When it comes to FSAs and HSAs, employers must follow the "state of celebration" rule. Under an August 2013 ruling from the Department of the Treasury and the Internal Revenue Service, same-sex couples who are legally married may use pre-federal-tax dollars to pay for health expenses through FSAs and HSAs—even if they currently live in a state that does not recognize their marriage.[159]

Impact on LGBT Workers of Color and Their Families. The inability to use pre-tax savings to pay for ordinary out-of-pocket family health expenses can cost, on average, an additional $779 annually.[160]

Denial of Family and Medical Leave

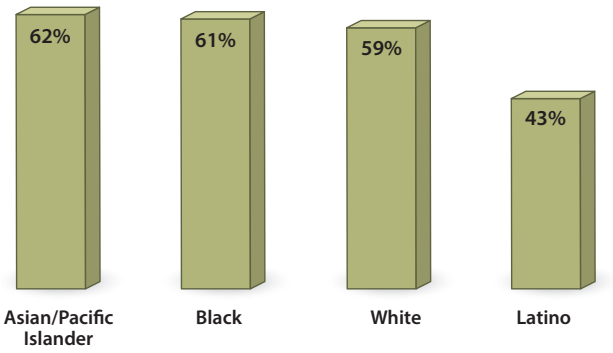
Individual Medical Leave and Challenges for LGBT Workers of Color

Problem: Transgender workers may face denials of leave for transition-related care, while LGBT workers of color often work for employers that are not subject to leave laws.

About the Benefit. The federal Family and Medical Leave Act (FMLA) grants up to 12 weeks of unpaid leave when a worker has a "serious health condition." FMLA defines "serious health condition" to include any period of incapacity or treatment connected with inpatient care in a hospital (i.e., an overnight stay), hospice, or residential medical care facility, or a period of incapacity requiring absence of more than three days from work that involves continuing treatment by a healthcare provider.

Inequities for LGBT Workers of Color. For transgender workers of color, accessing FMLA-covered time off for transition-related care can pose several challenges. Some physicians and employers may not correctly categorize transition-related healthcare as a serious health condition, and therefore deny leave. A transgender employee may also need to release protected health information to the employer to receive leave, thereby revealing his or her transgender status. LGBT workers of color face additional challenges when it

Figure 39: Percent of Workers with Access to Paid Leave
By Race/Ethnicity



Source: Farrell, Jane and Venator, Joanne. "Fact Sheet: Paid Sick Days." Center for American Progress. August 2012. http://www.americanprogress.org/wp-content/uploads/issues/2012/08/pdf/paidsickdays_factsheet.pdf citing U.S. Department of Labor, Bureau of Labor Statistics. "Table 1. Wage and Salary Workers with Access to Paid or Unpaid Leave at Their Main Job by Selected Characteristics, 2011 Annual Averages." 2012.

comes to individual leave. For example, in 2011, only 43% of Latino workers had access to paid leave, compared to 59% of white workers, 61% of African American workers and 62% of Asian American workers (see *Figure 39*).[161] One reason for the disparity, at least for Latino workers, is that they are more likely to work for small businesses, which are not covered by FMLA.[162]

Impact on LGBT Workers of Color. When LGBT workers of color are denied leave, they must choose between losing their jobs or forgoing needed medical care. In addition, given that transgender people lack explicit workplace protections in most states, requesting leave may mean revealing confidential health information and the employee's transgender status, which could pose a serious risk.

Family Medical Leave to Care for a Child or Spouse/Partner

Problem: LGBT workers can be denied leave to care for an ill or injured same-sex partner.

About the Benefit. The FMLA also allows eligible employees up to 12 weeks of unpaid leave to care for a spouse, parent or child with a "serious health condition."

Inequities for LGBT Workers of Color and their Families. Low-wage LGBT workers and LGBT workers of color may find themselves in a double bind when it comes to accessing leave. First, as noted above, they may be less likely to be eligible for leave at all, or have access to paid leave, because their employers are not covered by the FMLA. Second, this disadvantage is compounded by the fact that many LGBT employees are unable to take FMLA leave to care for a same-sex partner. In August 2013, the Department of Labor issued guidance, resulting from the Supreme Court's ruling on the Defense of Marriage Act, stating that same-sex couples who are considered legally married by the state in which they currently reside can take FMLA leave to care for a spouse (often called the "state of residence" rule).[163] This guidance differs from other Department of Labor guidance, which relies on the "state of celebration" rule. As a result, FMLA leave to care for a spouse is only available to legally married same-sex couples residing in one of the 16 states or the District of Columbia where same-sex couples are able to marry.

When it comes to caring for children, the FMLA uses a broad definition of family that allows an LGBT worker to take time off to take care of his or her child, regardless of whether the worker is a legal parent of that child.

Impact on LGBT Workers of Color. An employee who has a sick same-sex partner will likely face difficult decisions. Does she take time away from work and risk losing her job? Or does she leave her sick partner alone in a hospital room all day and go to work worrying about whether the person she loves is really getting the care she needs? Or does she hire expensive in-home care costing over $200 per day?[164] These decisions can be even more gut-wrenching for workers of color, who are more likely to be in low-wage jobs. For every two workers of color who took FMLA leave, according to a 2012 Department of Labor survey, another worker of color needed leave but could not afford to take it.[165]

Denial of Spousal Retirement Benefits

Many workers look ahead to retirement as a time to relax, enjoy time with family and reflect on their years of hard work. Yet, for many Americans, particularly LGBT workers, workers of color and women, economic security during retirement—or the ability to retire at all—has been called into question. Older people of color, for example, have higher rates of poverty than the broader population: 20% of older adults who are black or Latino are considered poor, and women of color are at even greater risk of living in poverty.[166]

When it comes to retirement benefits, LGBT workers of color again suffer from compounded discrimination.

Most retirement plans only recognize legal spouses and legal children as beneficiaries, meaning that unmarried same-sex couples are denied Social Security spousal and survivor benefits. Additionally, workers of color are less likely to work for employers that offer employer-sponsored retirement plans. For example, just one in five Latino private-sector workers have access to retirement plans, compared to 34% of African American workers and 44% of white workers.[167] Lastly, as discussed earlier, LGBT workers of color have high rates of poverty and face wage penalties, so the ability of workers of color to save for retirement is diminished, as is the ability to accrue Social Security retirement benefits, which are based on earnings during one's working years.

Denial of Social Security Spousal Benefits

Problem: The unmarried partners of LGBT workers are systematically denied Social Security spousal and survivor benefits, and the lower average earnings of LGBT workers of color mean they get less in their retirement.

About the Benefit. No retirement plan is more important for retired American workers than Social Security. Excluding Social Security benefits from seniors' incomes, the poverty rate among older adults would rise from roughly 9% to more than 43%.[168] Workers are not automatically granted Social Security; it is an earned benefit. Eligibility and benefit amounts are based on how much workers contribute to Social Security in the form of mandatory payroll taxes throughout their working lives.

Inequities for LGBT Workers of Color and their Families. Despite paying into Social Security in the same manner as their peers, LGBT workers of color may not be equally eligible for Social Security benefits.

The Social Security Administration (SSA) has yet to issue guidance as to how married same-sex couples will be treated for the purposes of Social Security benefits in the wake of the Supreme Court decision on DOMA, though couples who are considered legally married in their state of residence will receive spousal benefits.[169] However, the SSA is encouraging same-sex couples to apply for benefits if they are married but live in a state that does not recognize their marriage, or are in a civil union or domestic partnership (though it is not yet clear if these couples will receive benefits).

LGBT couples who remain unrecognized by the SSA may be denied three Social Security benefits designed to protect workers' families during the post-retirement years:

- The spousal benefit, which allows the spouse of a worker to receive up to 50% of the worker's earned Social Security benefit if that amount is higher than the benefit the spouse earned herself or himself.
- The survivor benefit, which allows the surviving spouse (or ex-spouse) to receive the greater of his or her individual Social Security benefit or 100% of the deceased worker's benefit amount.
- A one-time "death benefit" of $255, which often helps cover funeral, burial or cremation expenses.

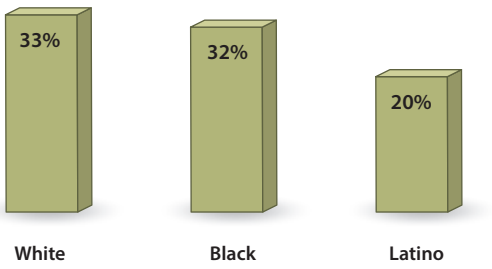
Impact on LGBT workers of color. The lack of spousal benefits can cost a retired same-sex couple up to $14,484 a year in lost benefits, while the lack of survivor benefits can cost an LGBT surviving partner up to $28,968 a year in lost benefits.[170] Over time, the effects of unequal benefits compound, potentially leaving a same-sex couple or surviving partner in poverty, while providing adequate financial security for an opposite-sex couple in an identical initial financial situation. Additionally, because of the wage gaps experienced by workers of color generally, it is likely that LGBT workers of color and their surviving family members will have fewer resources to support themselves during their retirement years. For example, in 2009 the average benefit for white retired workers was $1,130 per month compared to $942 per month for black retired workers.[171]

Unequal Treatment Under Defined-Benefit Plans/Pensions

Problem: LGBT workers of color are less likely to work for employers with defined-benefit plans, and the unmarried same-sex partner of an LGBT worker may be unfairly denied earned pension benefits when the worker dies.

About the Benefit. Defined-benefit plans, often called "pension plans," usually allow a retired employee to receive a set level of benefit payments (usually monthly) over the course of his or her retirement. Nearly one-third (31%) of retirees age 65 and older receive some income from pension plans.[172] Under federal law, pension plans automatically extend financial protection to a worker's spouse should the worker die. A Qualified Joint and Survivor Annuity (QJSA) makes the pension payable (albeit with a smaller monthly

Figure 40: Workers With Access to a Defined-Benefit Plan
By Race/Ethnicity



Butrica, Barbara A. and Richard W. Johnson. "Racial, Ethnic, and Gender Differentials in Employer-Sponsored Pensions." *The Urban Institute*. June 30, 2010. http://www.urban.org/UploadedPDF/901357-racial-ethnic-gender-differentials.pdf (accessed May 13, 2013).

payment) over the lifetimes of both the worker and his or her spouse. A Qualified Pre-Retirement Survivor Annuity (QPSA) allows the worker's surviving spouse to receive the pension if the worker dies before retiring.

Inequities for LGBT Workers of Color and their Families. Workers of color are less likely to work for employers that offer defined-benefit plans than white workers. In 2009, of workers between the ages of 25 and 59, 33% of white workers worked for an employer with a defined-benefit plan, compared to 32% of black workers, and just 20% of Latino workers (see *Figure 40*).[173] This is likely because white and black workers are more likely to work for federal, state and local governments than are Latino workers.

The Department of Labor's 2013 guidance on employee benefits follows the "state of celebration" rule. Same-sex couples legally married in a state that recognizes same-sex marriages must be treated as married and the employee's spouse must be treated as a "spouse," regardless of where the couple currently lives.[174] This means that same-sex spouses are entitled to pension benefits. However, employers are not required to make QJSAs nor QPSAs available for unmarried partners, meaning same-sex couples of color who do not or cannot marry may be denied these benefits.

Impact on LGBT Workers of Color. LGBT workers of color may live with the anxiety of knowing that there may be nothing in their pension plans to ensure continuing support after their death for a surviving partner. Consider a worker who retired at age 65 with 20 years of service and a salary of $50,000. A joint life annuity (QJSA) might pay the couple $1,827 per month. If a legally married worker died and his spouse lived another decade, the surviving spouse would receive $219,240 in additional pension income—income that would be denied an unmarried partner.[175] This uncertainty may be even more pronounced for an LGBT worker of color, whose pension income would likely be less than a similarly situated white LGBT worker because pension benefits are usually determined by a worker's salary or wage during his or her working years.

401(K)s, IRAS and Other Defined Contribution Plans

Problem: Same-sex partners of LGBT workers are denied tax-advantaged rollover and distribution options for defined-contribution retirement plans upon the worker's death; and LGBT workers of color are less likely to work for employers with defined-contribution plans.

About the Benefit. Defined-contribution plans, such as 401(k)s, Simple IRAs, or stock or profit-sharing plans, are the most common form of employer-sponsored retirement plans for employees in the private sector. The amount of money available to the worker during retirement depends on what the employee and the employer contributed over time. If a married worker with a spouse dies, the funds in the worker's retirement account may be rolled over to his spouse tax-free—and the inherited and "rolled-over" assets are then treated as the spouse's own. This means legally recognized spouses can leave inherited retirement accounts to grow tax-free until they reach the age of 70½ years.

Inequities for LGBT Workers of Color and their Families. Only spouses are granted significant tax advantages under the federal law governing these types of plans. As noted above, an August 2013 ruling states that the IRS is following the "state of celebration" rule. As a result, same-sex couples entered into a legally recognized marriage are considered spouses for tax-deferred retirement plans such as 401(k)s and IRAs—even if the couple lives in a state that does not recognize their marriage. However, an LGBT employee's unmarried same-sex partner who inherits such an account is considered a "non-spousal" beneficiary. The same-sex partner is therefore required to immediately start drawing down and paying taxes on the funds. Adding to the inequities, workers of color are less likely to work in jobs that offer employer-sponsored retirement plans at all; in 2006, 61% of white workers worked for an employer that offered a retirement plan, compared to 53% of black workers, and 35% of Latino workers.[176]

Impact on LGBT Workers of Color. Over time, the different treatment of an unmarried partner can have a significant impact on retirement savings and income, especially for those who inherit an account earlier in life. For example, a lesbian widow inheriting a $50,000 IRA at age 39 might lose $3,205 in annual retirement income due to this inequitable tax treatment. Additionally, because defined-contribution plan benefits are directly related to what an employee contributes during his or her working years, workers of color, who make less on average than white workers, may not be able to contribute as much during their working years, resulting in fewer resources for themselves and their survivors during retirement.

Unequal Family Protections When a Worker Dies or Becomes Disabled

Social Security Survivors and Disability Insurance Benefits

Problem: Families of disabled and deceased LGBT workers of color are often denied equal Social Security death and disability benefits.

About the Benefit. In addition to providing retirement income, Social Security also provides the equivalent of life or disability insurance through the Old-Age, Survivors and Disability Insurance (OASDI) program. When a worker is disabled or dies, her legally recognized children under age 18 can also receive benefits through OASDI, as can the worker's spouse if the spouse is caring for the worker's child and if the child is under age 16. This program, which past data shows to be particularly vital for families of color, provides benefits to more children than any other social program in the United States. In 2011, Social Security benefits lifted more than 1.1 million children out of poverty.[177] Temporary workers, who are disproportionately workers of color, are at particularly high risk for job-related injuries and death.[178] And, the fatality rate for immigrant workers in the U.S. has risen remarkably. Latino workers are particularly at risk; in 2011, two Latino workers were killed on the job every day in the U.S.,[179] and black and Asian workers had higher rates of fatal workplace incidents than white workers.[180]

Inequities for LGBT Workers and their Families. Under federal law, a worker's unmarried partner cannot receive survivor or disability benefits. In addition, if the worker is parenting the couple's children but is not a legal or biological parent, the family will be denied disability benefits meant to support their children. These benefits are particularly valuable to the families of Latino workers, as they are much more likely to disabled or die on the job than are white or black workers.[181]

As noted above, the Social Security Administration (SSA) is encouraging all same-sex couples who may have claims to file them, even though they have yet to issue guidance as to how legally married couples living in states that do not recognize their marriages will be treated.[182] However, the SSA is encouraging couples to apply for benefits if they are legally married, even if they live in a state that does not recognize their marriage, or are in a civil union or domestic partnership.

Impact on LGBT Workers of Color. Given the data about job-related fatalities and injuries, LGBT workers of color may need to rely on survivor and disability insurance benefits at higher rates than other workers. The average monthly benefit for the spouse of a disabled worker was $299 in 2011, while the average monthly benefit for a disabled worker's child was $322.[183] Assuming a worker has a spouse and two children who all receive the average benefit amount, this equates to $11,316 in annual household income. In 2011, the average monthly benefit for the spouse of a deceased worker was $884, while a minor child of a deceased working parent received an average of $783 per month.[184] These figures increase dramatically when looking at maximum benefits. For example, the surviving family (unmarried partner and two children) of a deceased LGBT worker of color who was earning $40,000 annually could lose as much as $29,520 in annual benefits based on the maximum benefit allowed.[185]

A Higher Tax Burden for LGBT Families

Unequal Taxation for LGBT and Other Diverse Families

Problem: LGBT families of color and other diverse families can be denied access to joint filing status and child and family-related tax credits, resulting in significantly higher taxation.

About the Benefit. The federal government provides a number of marriage and family-based incentives and tax credits aimed at helping workers, regardless of economic circumstance, ease the financial burdens of

raising a family. The Tax Foundation estimates that an average-income American family receives approximately $16,781 in such federal tax relief each year.[186]

Inequities for LGBT Workers of Color and Their Families. As noted above, legally married same-sex couples are considered married for federal tax purposes, even if they live in a state that does not recognize their marriage. LGBT workers who are not legally married or who are in domestic partnerships or civil unions can be denied many of the most important family and child tax credits, resulting in significantly higher taxation. First, workers with unmarried partners cannot file a joint federal tax return (which results in a much lower tax payment for most households). Second, when parents cannot form legal ties to their children, they also generally cannot claim many important child-related deductions and credits, including: tax exemptions for dependents; the child tax credit; the child and dependent care expense credit; and multiple education-related deductions and credits. LGBT workers of color also may not be able to claim tax credits, exemptions and deductions for children or adults with whom they live as a family.

Impact on LGBT Workers of Color. Because of unequal taxation, unmarried same-sex couples of color and their children can be left with significantly less money, both to provide for their families now and to save for the future. Consider a same-sex couple with one working parent who has a taxable income of $60,000 a year and a second stay-at-home parent who has no income. When filing as "single," the working parent, prior to other family-related deductions and credits, would face a federal tax burden of approximately $11,036. But if that worker were able to file jointly as part of a married couple, the couple's federal tax burden would be only $8,134. The inability to receive the tax relief associated with filing a federal tax return as a married couple costs the family $2,902 in additional taxes. Combined with other tax inequities, the disparities are even more significant. Consider a same-sex couple raising two children. The primary wage earner earns $48,202 per year while his partner (who is the legal parent of the children) works part-time and earns $7,250 per year. An analysis by the Movement Advancement Project shows that this family would pay $5,838 more in taxes than an identically situated married opposite-sex couple raising two children.[187]

Recommendations

The federal government, state governments and employers all have distinct and important roles to play in helping LGBT workers of color receive equal pay and benefits. States must provide paths to marriage and ways for LGBT and other non-recognized parents or guardians to create legal ties to the children they are raising. Additionally, the federal government should expand federal law to recognize today's families, including same-sex partners, unmarried partners, and children for whom a worker acts as a parent. Many of the access or equity gaps that affect LGBT workers of color also affect low-income workers broadly, workers with heterosexual domestic partners, workers of color broadly, and workers who live with and support family members who are not a spouse or legal child, such as an uncle providing care for a nephew. The recommendations spelled out below help these workers as well.

Recommendations to Help LGBT Workers of Color Gain Equal Pay and Benefits		Page References for Further Detail Found in the "A Broken Bargain" Report
Increase Wage Discrimination Protections		
Federal Government/ States/ Employers	Congress and state lawmakers should increase protections against wage discrimination based on race, ethnicity, national origin, sexual orientation and gender identity/ expression. Employers should institute fair wage policies.	pp. 45, 47
Recognize the Families of LGBT Americans		
States	State lawmakers should legalize marriage for same-sex couples in all states.	page 98
States	State lawmakers should pass comprehensive parental recognition laws at the state level to help LGBT workers gain legal ties to their children.	page 98
Improve Access to Individual and Family Health Benefits		
Federal Government	Congress should revise federal laws to ensure that self-insured employers provide equal access to family health benefits for all workers' partners and dependents, regardless of marital status or legal status of parent-child relationships.	page 98
Federal Government	Congress and the President should extend equal family health benefits to all federal government employees, including LGBT workers.	page 99
States	State lawmakers should revise state insurance laws to ensure that LGBT workers can obtain individual health insurance (whether purchased privately or provided through employers) that meets their healthcare needs, including coverage parity for transgender people.	page 98
States/ Local Government	State lawmakers should revise state laws to ensure that fully insured employers provide equal access to family health benefits for all workers' partners and dependents, regardless of marital status or legal status of parent-child relationships.	page 99
States	State and local lawmakers should extend equal family health benefits to all state and local government employees, including LGBT workers.	page 99
Employers	Employers should offer affordable health insurance benefits, including equal family coverage for the partners of all employees and their dependents, regardless of marital status or legal status of parent-child relationships.	page 99
COBRA Health Insurance Continuation Benefits		
Federal Government	Congress should ensure equal access to COBRA health insurance continuation benefits for any child or adult who is eligible for coverage under an employer's health plan.	page 99
Federal Government/ States	Federal and state legislators should make available assistance to help low-income workers afford COBRA coverage. A similar program was in place from September 1, 2008 to March 31, 2010 for workers who had involuntarily lost their jobs.	N/A
Employers	Employers should consider providing COBRA-equivalent coverage for LGBT employees and their families.	page 100
Taxation of Health Benefits		
Federal Government/ States	Congress should end the unfair taxation of family health benefits by allowing an adult or child covered under an employee's health plan to receive health benefits without placing an extra tax burden on the employee. States that impose additional state taxes on domestic partner benefits should also end such unfair taxation.	page 100
Employers	Employers should consider helping LGBT workers pay for the extra tax burden incurred when receiving family health benefits for non-legally recognized children or an unmarried partner.	page 100

Recommendations to Help LGBT Workers of Color Gain Equal Pay and Benefits		Page References for Further Detail Found in the "A Broken Bargain" Report
Pre-Tax Healthcare Savings Plans		
Federal Government	Congress should allow LGBT workers to use pre-tax savings for out-of-pocket expenses for family members.	page 100
Family and Medical Leave		
Federal Government/ States/ Employers	Federal and state governments and employers should revise the federal Family and Medical Leave Act (FMLA)/state medical and family leave laws/employer leave policies to broaden the definition of covered caregivers to include leave to care for a domestic partner, same-sex spouse, parent-in-law, adult child, sibling or grandparent.	pp. 100-101
Federal Government	The Department of Labor should revise regulations to permit legally married couples living in states that do not recognize their marriages to access FMLA leave. Currently, only legally married couples currently residing in states that recognize their marriages may access leave.	N/A
Federal Government/ States/ Employers	The Department of Health and Human Services should clarify that the federal FMLA allows leave for transgender workers seeking transition-related care. State policymakers and employers should similarly clarify state medical and family leave laws and employer leave policies, respectively.	page 101
Retirement and Survivor Benefits		
Social Security Retirement Benefits		
Federal Government	Congress should expand Social Security retirement benefits to include all same-sex partners rather than only recognize same-sex spouses living in states with marriage equality.	page 101
Pensions/Defined-Benefit Plans		
Federal Government	Congress should expand mandates for survivor benefits for pensions/defined-benefit plans to include protections for same-sex partners.	page 101
Employers	Employers should consider offering survivor benefits to the same-sex spouses and partners of LGBT workers.	page 102
401(k)s, IRAs, and Other Defined-Contribution Plans		
Federal Government	Federal tax law should treat "non-spouse" beneficiaries of inherited IRAs in the same manner as spousal beneficiaries.	page 102
Social Security Survivor and Disability Benefits		
Federal Government	Congress should ensure equal access to earned Social Security death and disability benefits for partners/spouses of LGBT workers and any children for whom the worker functions as a parent.	page 102
Employers	Employers should offer alternative death and disability options, such as life and disability insurance to workers.	page 102

Recommendations to Help LGBT Workers of Color Gain Equal Pay and Benefits		Page References for Further Detail Found in the "A Broken Bargain" Report
Federal Income Tax Inequities		
Federal Government	Congress should provide equal access to federal tax relief for LGBT workers and their families by: • Expanding the spousal credits and deductions to same-sex spouses and "permanent partners." • Broadening the IRS definition of the "qualifying person" test for "head of household" status and the credit for child and dependent care expenses. • Broadening the IRS definition of "qualifying child." • Expanding access to the credit for child and dependent care expenses so that any person who pays for the childcare or dependent care of another person can claim the credit. • Expanding access to education deductions and credits to allow any individual who pays the tuition and fees of another person to take these deductions and credits. • Ending inequitable taxation of family health benefits.	page 103

CONCLUSION

LGBT workers of color in the U.S. face challenges in the workplace not just because of their race and/or ethnicity, but also because of their sexual orientation and gender identity. Unsafe and under-resourced schools fail too many LGBT students of color, leaving them unprepared to compete for good jobs that provide fair wages and good benefits. Hiring bias and on-the-job discrimination mean that qualified LGBT workers of color may not have the opportunity to find jobs that match their abilities and aspirations and that allow them to support themselves and their families. Work environments may be openly hostile, and LGBT workers of color may have little legal recourse under federal or state law to do anything about it. Finally, wage discrimination, narrow definitions of family, and a lack of avenues to securing legal ties between a worker and his or her spouse and children mean that LGBT workers of color receive unequal compensation for equal work compared to their non-LGBT coworkers.

Advocates, employers and lawmakers can take steps to correct and mitigate the structural and legal inequalities that exist for LGBT workers of color. America has passed numerous laws and policies based on an understanding that protecting the interests of workers and their families is good for the economy and good for the country. It is time for those protections to extend to LGBT workers of color. It is time to show these workers that they and their families matter, and to show that our nation and our economy are stronger when we treat all workers fairly.

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This report was authored by:

Movement Advancement Project
The Movement Advancement Project (MAP) is an independent think tank that provides rigorous research, insight and analysis that help speed equality for LGBT people. MAP works collaboratively with LGBT organizations, advocates and funders, providing information, analysis and resources that help coordinate and strengthen their efforts for maximum impact. MAP also conducts policy research to inform the public and policymakers about the legal and policy needs of LGBT people and their families. For more information, visit www.lgbtmap.org.

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The Human Rights Campaign (HRC) seeks to improve the lives of LGBT Americans by advocating for equal rights and benefits in the workplace, ensuring families are treated equally under the law and increasing public support among all Americans through innovative advocacy, education and outreach programs. HRC works to secure equal rights for LGBT individuals and families at the federal and state levels by lobbying elected officials, mobilizing grassroots supporters, educating Americans, investing strategically to elect fair-minded officials and partnering with other LGBT organizations. For more information, visit www.hrc.org.

National Black Justice Coalition
The National Black Justice Coalition (NBJC) is a civil rights organization dedicated to empowering Black LGBT people. NBJC's mission is to end racism and homophobia. As America's leading national Black LGBT civil rights organization focused on federal public policy, NBJC has accepted the charge to lead Black families in strengthening the bonds and bridging the gaps between the movements for racial justice and LGBT equality. For more information, visit www.nbjc.org.

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ColorOfChange.org exists to strengthen Black America's political voice. Our goal is to empower our members—Black Americans and our allies—to make government more responsive to the concerns of Black Americans and to bring about positive political and social change for everyone. For more information, visit www.colorofchange.org.

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The Leadership Conference Education Fund builds public will for federal policies that promote and protect the civil and human rights of all persons in the United States. The Education Fund's campaigns inform and empower community leaders and advocates around the country to be informed about the need to push for progressive change in the United States. The Education Fund is the sister organization of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States. Through advocacy and outreach to targeted constituencies, The Leadership Conference works toward the goal of a more open and just society–an America as good as its ideals. For more information, visit www.civilrightsorg.

League of United Latin American Citizens
The League of United Latin American Citizens (LULAC) is the nation's largest and oldest civil rights volunteer-based organization that empowers Hispanic Americans and builds strong Latino communities. Headquartered in Washington, DC, with 900 councils around the United States and Puerto Rico, LULAC's programs, services and advocacy address the most important issues for Latinos, meeting critical needs of today and the future. For more information, visit www.LULAC.org.

MALDEF
Founded in 1968, MALDEF is the nation's leading Latino legal civil rights organization. Often described as the "law firm of the Latino community", MALDEF promotes social change through advocacy, communications, community education, and litigation in the areas of education, employment, immigrant rights, and political access. MALDEF strives to implement programs that are structured to bring Latinos into the mainstream of American political and socio-economic life; providing better educational opportunities; encouraging participation in all aspects of society; and offering a positive vision for the future. Unique to MALDEF is an approach that combines advocacy, educational outreach, and litigation strategies to achieve socio-economic change. For more information, visit www.maldef.org.

National Action Network
National Action Network (NAN) is one of the leading civil rights organizations with chapters throughout the U.S. Founded in 1991 by Reverend Al Sharpton, NAN works within the spirit and tradition of Dr. Martin Luther King, Jr. to promote a modern civil rights agenda that includes the fight for one standard of justice, decency and equal opportunities for all people regardless of race, religion, nationality or gender. For more information, visit www.nationalactionnetwork.net.

National Queer Asian Pacific Islander Alliance
The National Queer Asian Pacific Islander Alliance (NQAPIA) is a federation of LGBTQ Asian American, South Asian, Southeast Asian and Pacific Islander organizations. NQAPIA seeks to build the capacity of local LGBT AAPI organizations, invigorate grassroots organizing, develop leadership, and challenge homophobia, racism, and anti-immigrant bias. For more information, www.nqapia.org.

Out & Equal Workplace Advocates
Out & Equal Workplace Advocates (Out & Equal) is the world's largest nonprofit organization specifically dedicated to creating safe and equitable workplaces for LGBT people. Out & Equal believes that people should be judged by the work they do, not by their sexual orientation or gender identity. For more information, visit www.outandequal.org.

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Service Employees International Union (SEIU) is an organization of 2.1 million members primarily focused in three sectors: healthcare, property services, and public services. SEIU is committed to building a fair economy, providing workers a voice on the job, fighting for equality and ensuring that all working people can live with dignity. For more information, visit www.seiu.org.

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