

Employment Discrimination Based on Sexual Orientation and Gender Identity in Oklahoma



the Williams INSTITUTE

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January 2015

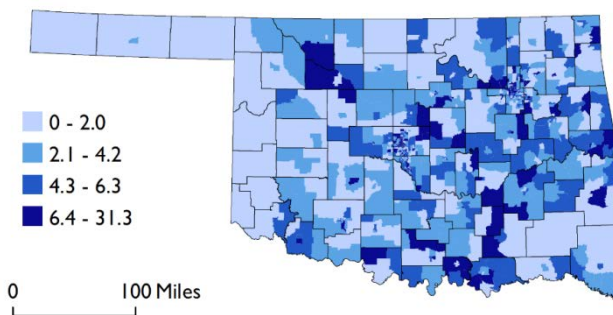
Executive Summary

More than 4% of the American workforce identifies as lesbian, gay, bisexual, or transgender (LGBT). Approximately 62,000 of these workers live in Oklahoma. Oklahoma does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.

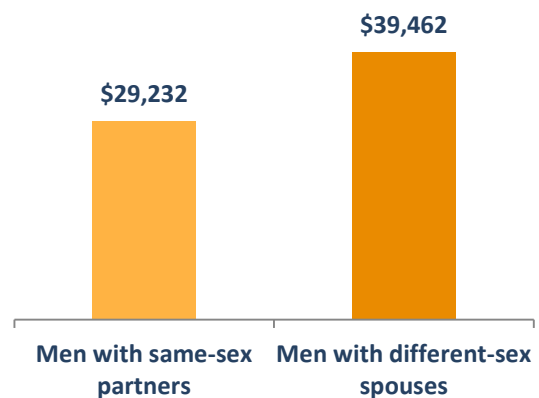
This report summarizes recent evidence of sexual orientation and gender identity employment discrimination, explains the limited current protections from sexual orientation and gender identity employment discrimination in Oklahoma, and estimates the administrative impact of passing a law prohibiting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

62,000	23%	68%	1%	29
Number of LGBT Workers	Income Disparity between Straight and Gay Male Workers	Public Support for LGBT Workplace Protections	Workforce Covered by Local Non-Discrimination Laws	Estimated New Complaints if LGBT Protections are Added to State Laws

Same-sex couples per 1,000 households, by Census tract (adjusted)



Average Individual Earnings for Men in Oklahoma



Key findings of this report include:

- In total there are approximately 101,000 LGBT adults in Oklahoma, including nearly 62,000 who are part of Oklahoma's workforce.¹
- Media reports and lawsuits document incidents of sexual orientation and gender identity discrimination against employees in Oklahoma. These include reports from a teacher, two police officers, and a librarian.
- National surveys find that discrimination against LGBT workers persists. Most recently, a 2013 Pew Research Center survey found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.
- When transgender people are surveyed separately, they report similar or higher levels of discrimination. For example, as recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity.
- Disparities in wages are an additional way that discrimination has traditionally been measured. Census data show that in Oklahoma, the median income of men in same-sex couples is 23% lower than men in different sex marriages.
- Seven localities in Oklahoma have ordinances prohibiting discrimination based on sexual orientation in local government employment, but do not include gender identity. No localities prohibit discrimination based on sexual orientation or gender identity in private sector employment.
- Approximately 99% of Oklahoma's workforce is not covered by a local ordinance that prohibits sexual orientation discrimination in public and private employment, and none of Oklahoma's workforce is protected by a local ordinance that prohibits discrimination based on gender identity.²
- Private companies may adopt internal non-discrimination policies to improve recruitment and retention of talented employees, to increase employee productivity and customer satisfaction, or to attract a larger customer base. A number of Oklahoma-based private corporate employers have adopted policies prohibiting discrimination based on sexual orientation and gender identity, along with several large universities in the state.
- Public opinion in Oklahoma supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 68% of those polled in Oklahoma said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.³ In addition, other polls have found that 78% of Oklahoma residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.
- Adding sexual orientation and gender identity to the state's current non-discrimination law would result in approximately 29 additional complaints being filed with the Attorney General's Office of Civil Rights Enforcement each year.

- Because the annual number of discrimination complaints filed with the Office varied by an average of 134 complaints over a recent four-year period, with no corresponding variation in the state budget, the anticipated new complaints based on sexual orientation and gender identity could likely be absorbed into the existing system with no need for additional staff and negligible costs.

Evidence of Discrimination

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

Research shows the existence of widespread and continuing discrimination against LGBT workers in the U.S. In response to surveys, LGBT workers consistently report having experienced discrimination, and non-LGBT people often report having witnessed discrimination against their LGBT co-workers. For example, a national survey conducted by Pew Research Center in 2013 found that 21% of LGBT respondents had been treated unfairly by an employer in hiring, pay, or promotions.⁴ Additionally, the nationally representative 2008 General Social Survey found that 37% of gay men and lesbians had experienced workplace harassment in the last five years, and 12% had lost a job because of their sexual orientation.⁵ As recently as 2010, 78% of respondents to the largest survey of transgender people to date reported having experienced harassment or mistreatment at work, and 47% reported having been discriminated against in hiring, promotion, or job retention because of their gender identity.⁶

Employment discrimination against LGBT people has also been documented in court cases, state and local administrative complaints, complaints to community-based organizations, academic journals, newspapers, books, and other media. Additionally, a number of federal, state, and local administrative agencies and legislative bodies have acknowledged that LGBT people have faced widespread discrimination in employment.⁷

Several recent instances of employment discrimination against LGBT people in Oklahoma have been documented in the media, court cases, and reports to legal organizations:

- In 2009, a teacher who planned to move from Indiana to Oklahoma for a teaching job had his contract rescinded by an Oklahoma City school because of his sexual orientation.⁸ The school had offered the teacher a one-year teaching contract which included language implying that the teacher could only be fired during that period “for cause.” The school also had a non-discrimination policy which prohibited discrimination based on sexual orientation. However, after learning that the teacher was gay, the school canceled the contract. The teacher subsequently brought suit against the school for breach of contract, alleging that because the school had a sexual orientation non-discrimination policy, the cancellation of the contract was invalid. A trial court in Oklahoma dismissed the suit in favor of the school, but an appellate court overturned the decision, finding that terminating the teacher because of his sexual

orientation in violation of the school's policy could constitute a breach of contract. No further information about the case is publicly available.

- In 2008, a municipal police officer transitioned from male to female while on the job.⁹ Thereafter, she reportedly experienced severe harassment based on her gender identity. After her transition, the police department also allegedly insisted that she undergo psychological evaluations and transferred her to an unfavorable position.
- In 2007, an electronics technician who worked out of a city firehouse reported that he began to experience harassment from co-workers after they found out that he was gay.¹⁰ According to the technician, when he stated that he wouldn't take a shower at the firehouse because the showers were so dirty, another employee replied, "I thought you'd like that," implying a shower with other men. One co-worker repeatedly screamed at the technician, physically intimidated him, and twice threatened to kill him. When the technician complained, his shift was changed against his wishes so that he would not work the same time as that co-worker. Additionally, according to the technician, the department administrator refused to give him a copy of the employer's policy on sexual harassment and nondiscrimination.
- In 2004, Oklahoma City reached a settlement with a transgender police officer who was harassed and fired because of her gender identity.¹¹ The officer, a decorated army veteran, was fired even though she had received an award from the Department of Justice for her service as a police officer.¹² The officer was hired in 1992 and underwent gender transition in 2001.¹³ Following her transition, she reportedly faced constant harassment from her co-workers, which interfered with her ability to do her job.¹⁴ However, she continued performing her job and even improved relations between the police department and the Asian, Hispanic, and gay and lesbian communities.¹⁵ Despite this achievement, and her exceptional performance prior to 2001,¹⁶ the police department removed her from patrol duties, gave her an interim clerical position, and then placed her on paid administrative leave.¹⁷
- In 2004, a librarian who had worked at the Oklahoma City Branch of Langston University for approximately three years, underwent a gender transition. When she returned from a professional conference, following her transition, she discovered that a student had circulated over 100 copies of a hate-filled petition calling for her removal from her job and had posted flyers to the same effect around the campus. Every reason cited in support of the librarian's removal was related to her gender identity. When the librarian confronted the library director about the situation, he reportedly told her that the student had a right to freedom of speech and that he would not do anything. When other students complained to the library director about the flyers, he allegedly supported the student who had passed them out. The student then printed a second flyer stating that "God wished [her] dead" and that he hoped she would die. According to the librarian, when she confronted administrators about the second flyer, she was told her concerns were unwarranted and she was the one creating problems. The following

semester, her schedule was changed so that she would have to leave the building at 10:00PM—long after other staff and faculty had gone home. Fearing that she would be unsafe on campus at that hour, she had no choice but to resign.¹⁸

Wage Inequity

Census data show that men in same-sex couples in Oklahoma earn less than men married to different-sex partners. On average, men in same-sex couples in Oklahoma earn \$29,232 each year, significantly less than the \$39,462 for men married to different-sex partners.¹⁹ The median income of men in same-sex couples in Oklahoma is \$24,000, 23% less than that of married men (\$31,000).²⁰ Men with same-sex partners earn lower wages, despite the fact that they are more likely to have a college degree than men married to different-sex partners,²¹ a comparison that supports the possibility that people in same-sex couples are not treated equally by employers. A 2009 study indicated that the wage gap for gay men is smaller in states that implement non-discrimination laws, suggesting that such laws reduce discrimination against LGBT people.²²

Women in same-sex couples earn less than married men as well as men in same-sex couples.²³ Women in same-sex couples in Oklahoma earn approximately the same as married women. Women in same-sex couples in Oklahoma earn an average of \$21,348 per year (with a median of \$18,000), and women married to different-sex partners earn an average \$20,913 (with a median of \$18,000).²⁴

These findings are not unique to Oklahoma. Analyses of national data consistently find that men in same-sex couples and gay men earn 10-32% less than similarly qualified men who are married to different-sex partners, or men who identify as heterosexual.²⁵ Surveys of transgender people find that they have high rates of unemployment and very low earnings.²⁶

Current Protections from Discrimination

Oklahoma does not have a statewide law that prohibits discrimination based on sexual orientation or gender identity in employment.²⁷ Several localities, universities, and private corporations in Oklahoma have adopted local ordinances and internal policies that prohibit discrimination based on sexual orientation and gender identity in employment.

The Oklahoma Anti-Discrimination Act

Currently, the Oklahoma Anti-Discrimination Act (“OADA”) prohibits employment discrimination based on race, religion, sex, national origin, age, disability, and genetic information.²⁸ The OADA applies to both public sector and private sector employers regardless of size.²⁹ The non-discrimination law does not apply to religious organizations from “with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by the [religious organization] of its religious activities.”³⁰

The Attorney General's Office of Civil Rights Enforcement enforces the OADA.³¹ The Office of Civil Rights Enforcement has the power to investigate complaints and may hold administrative hearings.³² After an investigation or a hearing, the Office of Civil Rights Enforcement may issue the employee a Right to Sue or may forward the case to the U.S. Equal Employment Opportunity Commission for further enforcement.³³ An employee who has filed a complaint with the Office of Civil Rights Enforcement may also request that a Right to Sue be issued if the case has not been resolved to the employee's satisfaction within 180 days of the date the complaint was filed.³⁴ When the employee has received a Right to Sue, he or she may bring suit against the employer in court.³⁵

During the fiscal year 2011, the most recent year for which data are available, the Office of Civil Rights Enforcement operated on a total budget of \$855,000.³⁶ The total budget included expenditures incurred for processing employment and housing complaints which would be reimbursed by the U.S. Equal Employment Commission and the U.S. Department of Housing and Urban Development.³⁷

Local-Level Protections from Discrimination

Seven localities in Oklahoma have adopted non-discrimination ordinances or government policies that prohibit employment discrimination against local government based on sexual orientation: Oklahoma City, Tulsa, Del City, Altus, McAlester, Vinita, and Miami.³⁸ No locality in the state prohibits discrimination based on sexual orientation in private sector employment. Further, no locality in the state prohibits discrimination based on gender identity in either public or private sector employment. Approximately 99% of Oklahoma's workforce is not covered by a local ordinance or government policy that prohibits sexual orientation discrimination, and none of Oklahoma's workforce is covered by a local ordinance that prohibits gender identity discrimination.³⁹

Private Company and University Non-Discrimination Policies

Private companies adopt internal policies prohibiting discrimination based on sexual orientation and gender identity for a variety of reasons including improved recruitment and retention of talented employees, increasing employee productivity and customer satisfaction, and attracting a larger customer base.⁴⁰ One study of corporate motivations behind adopting workplace non-discrimination policies found that 53% of the top companies in the U.S. with LGBT-supportive policies had adopted the policies for economic reasons.⁴¹

Academic research has found that LGBT-supportive corporate policies are linked to positive business-related outcomes, including greater job commitment, improved workplace relationships, increased job satisfaction, and improved health outcomes among LGBT employees.⁴² For example, a 2006 national poll found that 89% of LGBT respondents and 72% of non-LGBT respondents reported that when deciding where to work, it was important that an employer have a written non-discrimination policy that includes race, ethnicity, sex, religion, age, sexual orientation and disability.⁴³ Research also suggests that employers limit their available talent pool by screening out applicants based on their sexual

orientation. One study found that the rate of screening out gay male applicants was twice as high in regions without sexual orientation non-discrimination laws.⁴⁴

Additionally, LGBT-supportive workplace policies can expand opportunities to secure potentially lucrative government contracts for corporate employers. A 2011 study found that 68 local governments had laws requiring contractors to have LGBT-inclusive non-discrimination policies.⁴⁵ A number of states have similar laws that apply to state government contracts.⁴⁶ Without such policies, companies would not be eligible to bid for contracts with these state and local governments.

Several Oklahoma-based private corporate employers have adopted policies prohibiting discrimination based on sexual orientation, including Chesapeake Energy, Devon Energy, Dollar Thrifty Automotive, Great Plains Airlines, OGE Energy, ONEOK, Tulsa Metro Chamber, and Williams Companies.⁴⁷ Devon Energy, Dollar Thrifty Automotive, and ONEOK also prohibit discrimination based on gender identity.⁴⁸ Additionally, several colleges and universities in Oklahoma prohibit discrimination based on sexual orientation, including Oklahoma's two largest universities, The University of Oklahoma and Oklahoma State University.⁴⁹

Public Opinion

Public opinion in Oklahoma supports the passage of non-discrimination protections for LGBT people. In response to a national poll conducted in 2011, 68% of those polled in Oklahoma said that Congress should pass a federal law to prohibit employment discrimination based on sexual orientation and gender identity.⁵⁰

In addition, public opinion data indicate that Oklahoma residents perceive the state as unfriendly to LGBT people. Aggregated data from two large public opinion polls found that 78% of Oklahoma residents think that LGBT people experience a moderate amount to a lot of discrimination in the state.⁵¹

Administrative Impact

Complaint Estimate

Despite the persistence and pervasiveness of employment discrimination against LGBT people, studies show that enforcing sexual orientation and gender identity provisions in non-discrimination laws has only a minimal burden on state agencies. Complaints of sexual orientation discrimination are filed by LGBT people at approximately the same rate as complaints of race and sex discrimination are filed by people of color and women, respectively.⁵² However, because the LGBT population is so small, the absolute number of sexual orientation and gender identity complaints filed under state non-discrimination laws is very low.⁵³

We estimate that approximately 29 complaints of sexual orientation or gender identity discrimination would be filed with the Office of Civil Rights Enforcement each year. To reach this estimate, we drew on Gallup polling data and Census data from Oklahoma to estimate the size of the LGBT workforce in the

state, and applied a national sexual orientation and gender identity complaint rate to that population. We have previously used this methodology to estimate the number of complaints that would be filed on the basis of sexual orientation and gender identity in other states, including South Carolina, Missouri, Ohio, Pennsylvania, South Dakota, Texas, Utah, and West Virginia.⁵⁴

Results from a 2012 Gallup poll show that 3.4% of people in Oklahoma identify as LGBT.⁵⁵ Applying this percentage to the number of people in Oklahoma's workforce (1,818,434⁵⁶) indicates that there are 61,827 LGBT workers in Oklahoma.

Next, we applied the rate of complaints filed on the basis of sexual orientation or gender identity to the number of LGBT workers in Oklahoma to determine how many complaints will be filed annually if these characteristics are added to the employment non-discrimination law. We used the national average complaint rate from a 2008 study that analyzed administrative complaint data from 17 states that prohibited sexual orientation discrimination at that time.⁵⁷ The study found that across these states, the average rate of complaints filed on the basis of sexual orientation was 4.7 per 10,000 LGB workers.⁵⁸ There is not sufficient data to make a similar calculation of the average rate of complaints file on the basis of gender identity.⁵⁹ Therefore, we assume that this rate is also 4.7 per 10,000 transgender workers.

Applying the national complaint rate (4.7 per 10,000 LGBT workers) to the number of LGBT workers in Oklahoma (61,827) suggests that 29 complaints of sexual orientation and gender identity discrimination would be filed annually if these characteristics were added to the state's employment non-discrimination law.

Cost of Enforcement

Available data suggests that these additional complaints could be absorbed into the Office of Civil Rights Enforcement's exiting budget with minimal impact on staff and resources. According to budget reports prepared by the Oklahoma Office of State Finance, the Office of Civil Rights Enforcement received an annual average of 611 complaints⁶⁰ of housing, employment, and public accommodations discrimination from year 2006 through 2009.⁶¹ The budget reports do not provide enough data to determine the cost of enforcement per complaint, so it is not possible to precisely estimate any added expense associated with the additional 29 complaints.

However, the data suggest that the additional complaints would have a minimal impact on the Office for Civil Rights Enforcement. Annual fluctuations in the number of complaints filed varied from 57 to 200 complaints over the four years for which data are available.⁶² On average, annual filings from 2006 through 2009 varied by 134 complaints. Over this period of time, the Office of Civil Rights Enforcement's budget varied from \$968,000 to \$1,064,000.⁶³ Changes in the budget did not correspond to fluctuations in the number of complaints filed. For example, in the year the office received the highest number of complaints, 2009, it operated on the lowest budget— \$968,000.⁶⁴ This information

suggests that 29 additional complaints each year could be absorbed into the existing budget with minimal impact on staff and resources.

Fiscal Year ⁶⁵	Number of Complaints Handled	Budget
2009	742	\$968,000
2008	596	\$1,027,000
2007	653	\$1,064,000
2006	453	\$1,057,000

Conclusion

Documented evidence shows that LGBT people face employment discrimination across the country, including in Oklahoma. There is currently no statewide law that prohibits employment discrimination based on sexual orientation or gender identity in Oklahoma. Adding these characteristics to the Oklahoma Anti-Discrimination Act would provide protection from discrimination to approximately 62,000 LGBT workers in the state. Based on data from other state administrative enforcement agencies, we estimate that approximately 29 complaints of sexual orientation or gender identity employment discrimination would be filed in Oklahoma annually if the law were amended. It is likely that the additional 29 complaints could be absorbed into the Office for Civil Rights Enforcement's existing budget.

About the Williams Institute

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

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Endnotes

- ¹ These estimates were reached by applying the percentage of people in Oklahoma that are LGBT (3.4%) to the population of Oklahoma aged 16 years and older (2,975,401) and the number of people in the Oklahoma civilian labor force (1,818,434), respectively. Gary J. Gates & Frank Newport, *LGBT Percentage Highest in D.C., Lowest in North Dakota*, GALLUP, Feb. 15, 2013, <http://www.gallup.com/poll/160517/lgbt-percentage-highest-lowest-north-dakota.aspx>; American Community Survey, U.S. Census Bureau, American FactFinder, 2012 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, *available at* http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_5YR_DP03.
- ² Calculated by authors using data from the American Community Survey, 2010-2012 3-Year-Estimates, Sex by Class of Worker tables available at <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited August 11, 2014).
- ³ Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).
- ⁴ A Survey of LGBT Americans: Attitudes, Experiences and Values in Changing Times, Pew Research Center, June 13, 2013, <http://www.pewsocialtrends.org/2013/06/13/a-survey-of-lgbt-americans/>.
- ⁵ BRAD SEARS & CHRISTY MALLORY, WILLIAMS INST., DOCUMENTED EVIDENCE OF EMPLOYMENT DISCRIMINATION & ITS EFFECTS ON LGBT PEOPLE 2 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Sears-Mallory-Discrimination-July-2011.pdf>.
- ⁶ JAMIE M. GRANT, LISA A. MOTTET, JUSTIN TANIS, JACK HARRISON, JODY L. HERMAN, & MARA KEISLING, INJUSTICE AT EVERY TURN: A REPORT OF THE NATIONAL TRANSGENDER DISCRIMINATION SURVEY 51 (2011), http://www.thetaskforce.org/downloads/reports/reports/ntds_full.pdf.
- ⁷ SEARS & MALLORY, *supra* note 5.
- ⁸ *Sexton v. Kipp Reach Acad. Charter Sch., Inc.*, 260 P.3d 435 (Okla. Civ. App. 2011).
- ⁹ E-mail from Jon Davidson, Legal Director, Lambda Legal, to Nan D. Hunter, Legal Scholarship Director, the Williams Institute (Feb. 11, 2009, 12:18:00 EST) (on file with the Williams Institute).
- ¹⁰ *Id.*
- ¹¹ Office of the Municipal Counselor, City of Okla. City, Council Agenda Item No. VII. K. 1&2 (Sept. 27, 2005), *available at* http://www.okc.gov/council/council_library/packet/050927/VIII%20K%201&2.pdf.
- ¹² Reuters, *Sex-Change Oklahoma Officer Files Harassment Suit*, EXP. INDIA, Dec. 29, 2004, <http://expressindia.indianexpress.com/news/fullstory.php?newsid=40143> (last visited Aug. 12, 2014).
- ¹³ *Id.*
- ¹⁴ Judy Gibbs Robinson, *Two Lives, Two Struggles*, NEWSOK.COM, Feb. 9, 2004, <http://newsok.com/two-lives-two-struggles/article/1889010>.
- ¹⁵ Oklahoma Office of Personnel Management Affirmative Action Plan, <http://bit.ly/sKEIp> (last visited Sept. 6, 2009).
- ¹⁶ Robinson, *supra* note 14.
- ¹⁷ *Transgender Police Officer Files Civil Rights Complaint*, ADVOCATE.COM, Jan. 27, 2005, <http://www.advocate.com/news/2005/01/27/transgender-police-officer-files-civil-rights-complaint-14928>.
- ¹⁸ Email from Ken Choe, Senior Staff Attorney, American Civil Liberties Union, to Brad Sears, Executive Director, the Williams Institute (Sept. 11, 2009, 14:10:00 PST) (on file with the Williams Institute).

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- ¹⁹ ADAM P. ROMERO, AMANDA K. BAUMLE, M.V. LEE BADGETT & GARY GATES, CENSUS SNAPSHOT: OKLAHOMA 2 (2007), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/OklahomaCensus2000Snapshot.pdf>.
- ²⁰ *Id.*
- ²¹ *Id.*
- ²² GARY J. GATES, CAL. CTR. FOR POP. RESEARCH, THE IMPACT OF SEXUAL ORIENTATION ANTI-DISCRIMINATION POLICIES ON THE WAGES OF LESBIANS AND GAY MEN (2009), <http://papers.ccpr.ucla.edu/papers/PWP-CCPR-2009-010/PWP-CCPR-2009-010.pdf>.
- ²³ ROMERO, ROSKY, BADGETT & GATES, *supra* note 19 at 2.
- ²⁴ *Id.*
- ²⁵ M.V. Lee Badgett, Holning Lau, Brad Sears & Deborah Ho, *Bias in the Workplace: Consistent Evidence of Sexual Orientation and Gender Identity Discrimination 1998-2008*, 84 CHI.-KENT L. REV. 559, 559-60 (2009).
- ²⁶ *Id.*
- ²⁷ See JEROME HUNT, CTR. AM. PROG. ACTION FUND, A STATE-BY-STATE EXAMINATION OF NONDISCRIMINATION LAWS AND POLICIES 3 (June 2012), http://cdn.americanprogress.org/wp-content/uploads/issues/2012/06/pdf/state_nondiscrimination.pdf.
- ²⁸ OKLA. STAT. tit. 25, § 1101 (2014).
- ²⁹ OKLA. STAT. tit. 25, § 1301.
- ³⁰ OKLA. STAT. tit. 25, § 1307 (the non-discrimination requirements also do not apply to employers who are Native American tribes or bona fide private membership clubs).
- ³¹ OKLA. STAT. tit. 25, § 1350(B).
- ³² OKLA. STAT. tit. 25, § 1350.
- ³³ *Id.*
- ³⁴ OKLA. STAT. tit. 25, § 1350(C).
- ³⁵ OKLA. STAT. tit. 25, § 1350(C).
- ³⁶ MARY FALLIN, GOV., EXEC. BUDGET-HISTORICAL DATA FOR FISCAL YEAR ENDING JUNE 30, 2013 234 (2013), <http://www.ok.gov/OSF/documents/bud13hd.pdf>.
- ³⁷ The EEOC and HUD reimburse the Office for Civil Rights for each complaint resolved and approved by the EEOC (for employment discrimination complaints) or HUD (for housing discrimination complaints). See MARY FALLIN, GOV., EXEC. BUDGET-HISTORICAL DATA 456 (2012), <http://www.ok.gov/OSF/documents/bud12hd.pdf>. The amount to be reimbursed is counted towards the total agency budget each year. See MARY FALLIN, EXECUTIVE BUDGET-HISTORICAL DATA FOR FISCAL YEAR ENDING JUNE 30, 2013, *supra* note 36 at 234 (separately listing funds to be reimbursed by the EEOC and HUD in accounting tables).
- ³⁸ TEN Institute, *Municipal Equality Database*, August 15, 2010, available at <http://www.scribd.com/doc/33127989/Municipalities-Database>; The Equality Network, *New Report Shows Surprising Gains for Gay Oklahomans*, June 16, 2010, available at <http://www.scribd.com/doc/33137283/New-Report-Shows-Surprising-Gains-for-Gay-Oklahomans>; *Oklahoma County Employee Handbook*, May 5, 2008, pg. 39; P.J. Lassek, *Council adds sexual orientation to city's nondiscrimination policy*, Tulsa World, June 17, 2010; Code of Ordinances, City of McAlester, Oklahoma Part 1 Charter Art. 7.02 (prohibiting discrimination in city government employment); City Council, Okla. City, Okla., Resolution Amending Sections 105 and 104 of the City of Oklahoma City Personnel Policies, as Amended and Adopted December 13, 2005, to Include Specific Reference to

Discrimination Based upon Sexual Orientation, and Direct the City Manager to Disseminate Said Amendments (Nov. 15, 2011).

³⁹ Calculated by authors using data from the American Community Survey, 2010-2012 3-Year-Estimates & 2008-2012 5-Year-Estimates, Select Economic Characteristics tables (civilian labor force numbers) *available at* <http://factfinder2.census.gov/faces/nav/jsf/pages/index.xhtml> (last visited Aug. 11, 2014).

⁴⁰ See BRAD SEARS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, ECONOMIC MOTIVES FOR ADOPTING LGBT-RELATED WORKPLACE POLICIES (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Mallory-Sears-Corp-Statements-Oct2011.pdf>.

⁴¹ *Id.*

⁴² M.V. LEE BADGETT, LAURA E. DURSO, ANGELIKI KASTANIS & CHRISTY MALLORY, THE WILLIAMS INST. UNIV. OF CAL. L.A. SCH. OF LAW, THE BUSINESS IMPACT OF LGBT-SUPPORTIVE WORKPLACE POLICIES (2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Business-Impact-LGBT-Policies-Full-Report-May-2013.pdf>.

⁴³ Out & Equal, Harris Interactive & Witeck Combs Commc'n, *Majority of Americans: Companies Not Government Should Decide Benefits Offered to Same-Sex Employees*, OUTANDEQUAL.ORG (May 22, 2006), http://outandequal.org/documents/2006_Workplace_Survey052306.pdf.

⁴⁴ Andras Tilcsik, *Pride and Prejudice: Employment Discrimination against Openly Gay Men in the United States*, 117 AM. J. SOC. 586, 590-93 (2011).

⁴⁵ Christy Mallory & Brad Sears, *An Evaluation of Local Laws Requiring Government Contractors to Adopt LGBT-Related Workplace Policies*, 5 ALBANY GOV'T L. REV. 478, 481 (2011).

⁴⁶ For example, California (CAL. GOV. CODE § 12990 (2013)), Delaware (DEL. CODE ANN. tit., 29 § 6962(d)(7) (2013)), and Maryland (MD. CODE ANN., STATE FIN. & PROC. § 19-101 (LexisNexis 2013)), among others.

⁴⁷ Human Rights Campaign, Corporate Employer Database, http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx (search for Headquarters State: Oklahoma; Key Policies: Sexual Orientation in Non-discrimination Policy; and Includes Policy: Yes).

⁴⁸ Human Rights Campaign, Corporate Employer Database, http://asp.hrc.org/issues/workplace/search.asp?form=private_detailed_search.aspx (search for Headquarters State: Oklahoma; Key Policies: Gender Identity in Non-discrimination Policy; and Includes Policy: Yes).

⁴⁹ University of Oklahoma Staff Handbook § 5.22 (2014), *available at* <https://apps.hr.ou.edu/StaffHandbook#5.22> (non-discrimination policy includes sexual orientation but not gender identity); Oklahoma State University Policy and Procedures, 1-0101 Equal Opportunity/Affirmative Action, May 2004, *available at*: <https://stillwater.sharepoint.okstate.edu/Policies/Shared%20Documents/Forms/AllItems.aspx>.

⁵⁰ Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Public Religion Research Institute Survey (2011) (data and calculations on file with author).

⁵¹ Andrew Flores & Scott Barclay, Williams Institute Analysis based on public opinion data from Evaluations of Government and Society Study, Survey 3 (2011) & Survey 4 (2012) and Pew Research Center Poll (2013) (data and calculations on file with author).

⁵² M.V. LEE BADGETT, CHRISTOPHER RAMOS & BRAD SEARS, WILLIAMS INST., EVIDENCE OF EMPLOYMENT DISCRIMINATION ON THE BASIS OF SEXUAL ORIENTATION AND GENDER IDENTITY: COMPLAINTS FILED WITH STATE ENFORCEMENT AGENCIES 1999-2007 (2008), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Badgett-Sears-Ramos-Emply-Discrim-1999-2007-Nov-08.pdf>; William B. Rubenstein, *Do Gay Rights Laws Matter?: An Empirical Assessment*, 75 S. CAL. L. REV. 66, 79-81 (2001).

⁵³ *Id.*

⁵⁴ See *Workplace*, THE WILLIAMS INST., <http://williamsinstitute.law.ucla.edu/category/research/workplace/> (last updated Dec. 10, 2013).

⁵⁵ Gary J. Gates & Frank Newport, *supra* note 1.

⁵⁶ American Community Survey, U.S. Census Bureau, American FactFinder, 2012 ACS Table DP03: Selected Economic Characteristics, 1-Year Estimates, http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=ACS_12_1YR_DP03.

⁵⁷ “National average” refers to the average of the complaint rates in 17 states across the country that prohibited sexual orientation discrimination in 2008. BADGETT, RAMOS & SEARS, *supra* note 52.

⁵⁸ The data gathered for the 2008 study included all employment discrimination complaints filed on the basis of sexual orientation; it was not limited to complaints filed by LGB employees. Heterosexual employees may also file complaints under sexual orientation non-discrimination laws if they were discriminated against because of their heterosexuality or because they were perceived to be LGB. However, we use the LGB workforce as the underlying population for purposes of our analysis because LGB employees likely file the vast majority of sexual orientation discrimination complaints. See Rubenstein, *supra* note 52.

⁵⁹ BADGETT, RAMOS & SEARS, *supra* note 52, at 5.

⁶⁰ The total number of complaints includes employment and housing discrimination complaints which are handled by the Office according to procedures established by the U.S. Equal Employment Opportunity Commission and the U.S. Department of Housing and Urban Development (the enforcement costs of which are reimbursed by the EEOC and HUD) and other complaints handled by the Office which fall outside of those two enforcement programs. See, e.g., BRAD HENRY, GOV., FY-2010 EXEC. BUDGET HISTORICAL DO. 470-73 (2009), <http://www.ok.gov/OSF/documents/bud10hd.pdf>.

⁶¹ The annual average number of complaints is based on the number of complaints filed in 2006 (453 complaints), 2007 (653 complaints), 2008 (596 complaints) and 2009 (742 complaints)—the four most recent years for which complete data is available. *Id.* at 470-73; BRAD HENRY, GOV., FY-2009 EXEC. BUDGET HISTORICAL DOC. 401-03 (2008), <http://www.ok.gov/OSF/documents/bud09hd.pdf>; MARY FALLIN, GOV., EXEC. BUDGET – HISTORICAL DATA FOR THE FISCAL YEAR ENDING JUNE 30, 2012 455-57 (2011), <http://www.ok.gov/OSF/documents/bud12hd.pdf>.

⁶² *Id.*

⁶³ In 2006, the Office of Civil Rights Enforcement handled 453 complaints on a budget of \$1,057,000. In 2007, the Office handled 653 complaints on a budget of \$1,064,000. In 2008, the Office handled 596 complaints on a budget of \$1,027,000. In 2009, the Office handled 742 complaints on a budget of \$968,000. *Id.*

⁶⁴ MARY FALLIN, EXEC. BUDGET – HISTORICAL DATA FOR THE FISCAL YEAR ENDING JUNE 30, 2012, *supra* note 61 at 455-58.

⁶⁵ Data in this table can be found in the 2009-2012 Oklahoma Executive Budget reports, *supra* note 61.