

**A Transition in the Legal Profession**  
**A Talk with M. Dru Levasseur**  
**Director of Diversity, Equity, and Inclusion, National LGBTQ+ Bar Association and**  
**Foundation**

- Legal Issues impacting the LGBTQ+ Community
  - Discrimination against LGBTQ+, particularly transgender people
    - 2015 U.S. Transgender Survey Report<sup>1</sup>: survey of 27,000+ transgender people on their experiences
    - Compounding impact of other forms of discrimination
      - Intersectional people face additional barriers and discrimination.
      - Transgender women of color are particularly vulnerable.
  - Legal issues
    - Access to healthcare
      - Podcast episode of Why is This Happening? With Chris Hayes, *Treating Trans Youth with Dr. Izzy Lowell*<sup>2</sup>
      - The Jim Collins Foundation<sup>3</sup>: nonprofit with a mission to fund gender-affirming surgeries for those transgender people who need surgery to live a healthy life, but have no ability to pay for it themselves.
      - Fields v. Smith<sup>4</sup>
        - The Seventh Circuit invalidated Wisconsin's 2005 law the Inmate Sex Change Prevent Act which prohibited the use of any state or federal funds to provide hormonal therapy or gender-affirming surgery, essentially denying all transgender prisoners access to such treatment. The Seventh Circuit affirmed a district court order finding the law unconstitutional under the 8<sup>th</sup> Amendment.
    - Equality in the educational context for students
      - Transgender and gender non-conforming students have been denied access to restrooms and facilities consistent with their gender identify and have been barred from participating in sports.
    - Lambda Legal representation of Robina Asti<sup>5</sup>

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<sup>1</sup> National Center for Transgender Equality's 2015 U.S. Transgender Survey, <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

<sup>2</sup> Access the podcast at <https://apple.co/3kP5yNV>.

<sup>3</sup> *Jim Collins Foundation*, <https://jimcollinsfoundation.org>.

<sup>4</sup> 653 F.3d 550 (7th Cir. 2011). Read more about the case at Lambda Legal's site at <https://www.lambdalegal.org/in-court/cases/fields-v-smith>.

<sup>5</sup> Lambda Legal short film Flying Solo: A Transgender Widow Fights Discrimination, <https://www.lambdalegal.org/flyingsolo>.

- Robina Asti was a transgender WWII veteran who successfully challenged the denial of survivor benefits by the Social Security Administration following her husband's death. Lambda Legal filed a request for reconsideration on her behalf and was approved in 2014, 2 years after she filed applied.<sup>6</sup>
- Survey of LGBTQ+ Diversity and Inclusion in the Legal Profession
  - Significant gaps for intersectional attorneys
    - 2020 NALP Report on Diversity in U.S. Law Firms<sup>7</sup>
      - LGBTQ+ representation: from 1% to 3% over the prior 16 years
      - Significant gaps in representation of LGBTQ+ attorneys of color and women of color
    - 2020 NAWL Survey Report on the Promotion & Retention of Women in Law Firms<sup>8</sup>
      - Diverse attorneys (including Asian, Black, Hispanic/Latinx, Native American, and multiracial individuals) are about 31% of law students and about 25% of law firm associates. Relative representation decreases as careers advance.
  - Bias in the workplace
    - Explicit bias
      - E.g. instances of firings with documented discriminatory intent
      - See, e.g., *Glenn v. Brumby*, 724 F.Supp.2d 1284, 1289 (N.D. Ga. 2010), *aff'd*, 663 F.3d 1213 (11th Cir. 2011).
      - See, e.g., *Bostock v. Clayton County*, 140 S. Ct. at 1779.
    - Implicit bias and microaggressions
      - E.g. may be in the form of comments about appearance or gender stereotyping
  - Factors impacting retention and attribution
    - Inadequate nondiscrimination policies
    - Lack of mentorship
    - Lack of programming
    - Lack of adequate support
    - Workplace culture
- What Does DEI Entail
  - Why inclusion is important

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<sup>6</sup> Lambda Legal, *Victory! Lambda Legal Persuades Social Security to Give Survivor Benefits to 92-Year-Old Transgender Widow*. Feb. 24, 2014, [https://www.lambdalegal.org/blog/20140224\\_victory\\_robina](https://www.lambdalegal.org/blog/20140224_victory_robina)

<sup>7</sup> National Association for Law Placement 2020 Report, [https://www.nalp.org/uploads/2020\\_NALP\\_Diversity\\_Report.pdf](https://www.nalp.org/uploads/2020_NALP_Diversity_Report.pdf).

<sup>8</sup> National Association of Women Lawyers 2020 Study, <https://www.nawl.org/p/cm/ld/fid=2019>.

- Employers should want attorneys to feel included and supported in the workplace and employers need to appeal to increasingly diverse profession to recruit.
- Clients are more diverse. Profession needs diverse attorneys to serve the population.
- What legal employers and profession can do
  - Assess the gaps
    - LGBTQ+ Bar Association’s Diversity, Equity, and Inclusion Index<sup>9</sup>: survey of law firms and companies on their DEI policies and programming, diversity, and benefits
    - Includes questions on whether they
      - Have an explicit nondiscrimination policy
      - Encourage the use of pronouns on email signatures
      - Have equal nontraditional family planning
      - Have diversity training
      - Have trainings to cover same-sex harassment and harassment of transgender/nonbinary people
  - Integrate policies into the culture
  - Provide equal benefits

### **Additional Resources**

- LGBTQ+ Bar Association Annual Lavender Law Conference & Career Fair: <https://lgbtqbar.org/annual>
- LGBTQ+ Bar Association DEI Consulting Practice: <https://lgbtqbar.org/programs/dei-consulting-practice/>
- LGBTQ+ Bar’s Law School Campus Climate Survey: <https://lgbtqbar.org/climate-survey/climate-survey-2021/>
- HRC Corporate Equality Index: <https://www.hrc.org/resources/corporate-equality-index>

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<sup>9</sup> LGBTQ+ Bar Association’s Diversity, Equity, and Inclusion Index, <https://lgbtqbar.org/annual/wp-content/uploads/sites/6/sites/9/2021/08/2021-DEI-Index.pdf>.