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## Results from a Survey: Gay, Lesbian, and Bisexual Students' Attitudes About Law School

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# Results from a Survey: Gay, Lesbian, and Bisexual Students' Attitudes About Law School

Janice L. Austin, Patricia A. Cain, Anton Mack,  
J. Kelly Strader, and James Vaseleck

The Law School Admission Council's Gay and Lesbian Issues Work Group began its work in 1996. Among its purposes was to explore ways in which LSAC could address some of the concerns specific to GLB applicants, and to assist law schools in understanding those concerns and developing responses. Members of the group quickly decided that, although they were prepared to assemble a list of common applicant questions and answers, a survey of student attitudes and beliefs should inform their advice. In addition, they believed that GLB student organizations play a vital role in creating a welcoming environment for students, and they thought it would be well to survey such organizations, as a way both to learn more about them and to assist law schools in supporting them.

In the spring of 1997, the work group surveyed students and organizations. The survey consisted of two questionnaires—one for GLB students and one for GLB student organizations—covering such matters as coming out in the application process and in law school, coverage of GLB issues in the classroom, the law school environment for GLB students, institutional support for GLB student organizations, and students' overall satisfaction with law school.

Questionnaires went to the 194 LSAC-member law schools in the United States and Canada in two separate mailings. The first mailing was addressed to GLB student organizations. For some schools, the work group had reliable

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Copies of the two surveys with response tallies for multiple-response questions are available from the Gay and Lesbian Issues Work Group at the LSAC. Also available is a list of the law schools from which the group received at least one response.

contact information and sent the questionnaires to those student organizations.<sup>1</sup> For other schools, the mailing was addressed simply to "Gay and Lesbian Student Organization." In all cases, a cover letter explained the nature and purposes of the project, and asked the organization to distribute questionnaires to appropriate students for completion. A second mailing, later in the spring, went to members of the Section on Gay and Lesbian Legal Issues of the Association of American Law Schools. This mailing included a copy of both the student and the organization questionnaires, and asked the section members to assist in delivering them to the target audience. In all, the work group received responses from 313 students at 93 schools, and from 41 student organizations.

This article summarizes survey results and provides conclusions and recommendations in three broad subject areas: the admission process, the climate for law students, and issues relating to student organizations.

Before considering the survey results, it is important to state some cautions about the data. These results do not represent the views of all GLB law students. Because of the survey-distribution method, they necessarily include the views only of those students who are at least partially out of the closet. To receive a questionnaire, a student had to be known as gay, lesbian, or bisexual to at least one other person—either a leader of a student organization or a faculty member. Students who are completely closeted in law school, or who attend a school with no GLB student organization and no one on the faculty belonging to that AALS section, had no practical way of receiving the survey. This limitation is underscored by the fact that 94 percent of respondents said they were attending a law school with a GLB student organization, and 91 percent said they were members of that organization.

As a check on the representativeness of the survey results, the student questionnaire contained demographic questions labeled as optional. Among those students responding to these questions, the gender mix—48 percent female and 52 percent male—was comparable to the overall composition of U.S. law schools (if slightly skewed toward females), as was the racial and ethnic distribution: 80 percent white, 6 percent black, 5 percent Asian, 4 percent Hispanic, and 4 percent other. Thirty-eight percent of respondents were first-year students, 33 percent second-year, and 25 percent third-year, with 4 percent indicating "other." It is worth noting that only one historically black law school—Howard—is represented, and it is represented by a single questionnaire from a white student. Readers should bear in mind the limitations inherent in the survey methodology when interpreting the results that follow.

### **The Application Process**

The process of applying to law school can be stressful for any applicant, straight or gay. Adding to the stress for many GLB applicants is the need to

1. LSAC annually surveys admission professionals on a wide variety of issues. The 1995 questionnaire asked for contact information on GLB student organizations, and about 60 organizations were thus identified.

decide whether to come out as part of that process. In general, student respondents had been out, at least to some people, before entering law school; were less than forthcoming about their sexuality in the application process; and would offer mixed advice to future law school applicants.

### *Personal Experiences*

Most survey respondents were out of the closet before entering law school. Although a significant minority, 28 percent, reported not being out at all, 53 percent of those responding said that they had been out generally, and 19 percent reported being out to selected people. When it came time to apply to law school, however, the group was somewhat more reticent. Asked whether they had self-identified as GLB in their law school applications, 37 percent responded "no, not in any applications," 33 percent answered "in some applications but not others," and less than a third (29 percent) answered "yes, in all of my applications."

The student questionnaire asked respondents to explain those decisions. Of those who did self-identify, many said that they were out in general and saw no reason not to be out in their applications. Others described their sexual orientation as a central part of who they are, and several said that they wanted their sexual orientation to play a part in the selection process for good or ill. Another significant rationale was the desire to describe leadership positions in undergraduate student organizations or other life experiences. Some respondents frankly stated that they thought it would give them a competitive advantage. Here are some of the responses.

I feel that "lesbian" is a significant part of my existence and many of my accomplishments have been in advancing a general understanding of GLBT [gay/lesbian/bisexual/transsexual] issues and advancing services for GLBT persons.

I was hoping that any law school that didn't welcome gay students would turn me down. I only wanted to go to a gay-friendly law school.

I had hoped it would set me apart. I had also hoped to be contacted by the school's GLB faculty or student organization, but was not.

It was relevant to why my career as a naval officer ended.

I felt it would help explain family court custody battles that continue even today and my motivation for seeking a law degree at this point in my life.

For me, being gay is not my identity, rather it's part of who I am. I discussed my relationship of 15 years on my applications because it provided a clearer understanding of who I am to the admissions committee.

My past experiences with discrimination fueled my desire to come to law school. Law school is a new beginning for me, and I intend to be open and out.

I left teaching and was finally happy to be entering a profession where it wouldn't matter.

It's me. I want a school that wants me back.

Among the 113 respondents who chose not to self-identify in their applications, 33 stated, as at least part of their reason, their belief that it was not relevant to the application process. In fact, there was a significant undercurrent in many responses that an applicant's sexual orientation should not matter to an admission committee. Other respondents feared that self-identification would hurt their chances for admission, and some said that law school applications simply didn't ask about sexual orientation. Some specific responses follow.

I never felt it was necessary.

I did not feel it had any bearing on my qualifications for admittance. I also do not like to be labeled and pigeonholed under any certain classification. My personal life is not at issue, my potential skills as a lawyer are.

Fear that the "sexual orientation" policies were merely "on paper," not really adhered to in the admission process.

I didn't want to be judged solely on that issue.

The law school had no programs or curriculum to specifically address sexual orientation and the law, and so I wanted to eliminate any potential for bias in the consideration of my application.

I am not willing to openly stigmatize myself amongst my peers. I don't need the self-invited harassment or grief. I can do much more for the gay movement by working with the current semi-oppressive system rather than against it. One gets more bees with honey.

I consider my sexual orientation to be only one part of my self, and not a part which truly identifies me. As a bisexual, it's difficult to fit into either straight or gay identity constructs. Hence, I view my sexuality as a trait rather than a full identity. I also consider it somewhat private.

There was no casual and dignified way to come out on my applications. I also didn't think it was a good idea to self-identify because I am a black woman who was applying from a state school.

Those who selectively self-identified seemed to have strategic reasons for doing so. These respondents looked for evidence of a gay-friendly environment and came out on their applications where they found one, but did not where they could find no such evidence. For example:

Other than two schools, no other school was clear about its consideration of status. I felt that it could have been a bar against being accepted.

I knew some schools might be trying to change their law school environments by making them more gay-friendly. I hoped being out would help my application get considered.

Where schools had gay-positive groups I felt much more comfortable coming out. For schools without such groups, I tended to remain closeted so as not to hurt my chances of acceptance.

It depended on the school's nondiscrimination policy and whether it was relevant.

That choice depended on whether I believed it was to my benefit or detriment, obviously. Factors included the extent to which the GLB student organization was promoted in the law school brochures and whether the nondiscrimination policy included "sexual orientation."

#### *Advice to Applicants*

Respondents were invited to share any advice they might like to give to future GLB law school applicants. This invitation generated a great variety of responses. On the question of self-identification on applications, respondents' advice tended to mirror the range of factors that had led to their own decisions. Some cited the importance of being completely honest with a school from the very beginning; others thought a school that rejected an applicant because of sexual orientation would probably not be a happy place for that applicant; and others expressed concern about possible antigay bias in the admission process or questioned the relevancy of sexual orientation to that process.

Besides addressing the self-identification issue, respondents had a lot of other advice, some specifically relevant to GLB applicants and some more general. Much of this advice focused on the need to learn as much as possible about a law school and encouraged applicants to supplement the usual sources of information (recruiters, catalogs and brochures, and rankings). Indeed, several of the responses reflected a general suspicion about the accuracy of information supplied by law schools. Perhaps not surprisingly, many of these respondents encouraged applicants to contact current students for accurate information. Because of the wide range of responses to this question, many are quoted here.

Prepare a well-rounded, honest application. Ask questions before deciding. Is there a GLB organization or student group? Does the school provide domestic partnership coverage?

I would wait till after admission to come out. It's just safer. If there were legal protections, it might be different, but the ABA standard is just not enough protection.

Identifying who you are on an application gives an admission committee an opportunity to get to know you and separate you from the herd. If a committee rejects you based on your sexuality, you're better off knowing before you pay your tuition bill.

You will be under a good deal of stress in law school. Consider how much energy it requires to hide your sexuality. Do you want that stress in addition to the law school stress? You can eliminate or reduce it by coming out from the beginning. Recruiters will address your concerns, and you can include or eliminate schools to control the outside stress of sexuality. If you remain discreet in your applications, you may choose an intolerant school and coming out or not *will* be an issue.

Throw away rankings and general materials that present one-size-fits-all help on selecting law schools. Phone or e-mail actual students, faculty, lawyers, and administrators and ask them to share their specific experiences.

Understand that you are a law student first and then decide how your sexual orientation fits into your legal education. With an understanding of the overlap between the two, you can decide what is important to you in choosing a school.

In retrospect, I would have been much more informed about how gay issues are handled at particular schools.

Be honest about what you need in terms of a community both in and out of law school. I go to a law school in a small Southern town, and I like it, but it's a challenge.

The Internet is a good source for information on a school's G&L group, if one exists. Try to talk to a lesbian or gay student at school before deciding whether to go.

Meet with some of the faculty and ask about the atmosphere, what courses are offered dealing with GLB issues, etc.

Visit the schools to which you're applying and ask the admission director for the names of some GLB students. Talk with students about the atmosphere of the school. Realize you'll never find a school completely free of problems and prejudice, but at the same time, realize that a number of schools are very committed to welcoming GLB students.

No different advice than I would give to straight applicants—choose a broad enough group of schools, set aside time to meet deadlines, pick good references—all this of course after you have researched the school.

Definitely investigate if there are any out faculty, or a student group. Ask students because the admissions office may not give you an accurate answer.

Get in touch with the LGB group at the schools you're applying to to get the real word on the school.

Study hard for the LSAT and write an honest application essay.

I think your "out" status has very little to do with the application process. The key to success is to have a solid GPA in a rigorous undergraduate program, good LSAT scores, and an *excellent* writing sample.

Don't just go somewhere with a strong gay organization in a cushy, gay-friendly community. Don't be afraid to be a trailblazer. You can accomplish so much more in a burgeoning community. Be a big fish in a small pond.

### *Summary and Recommendations*

The question whether GLB applicants should identify themselves in the admission process seems to be largely a personal one. Among the current law students who responded to the LSAC survey, there was no clear pattern of self-identification, nor any consensus about how future applicants should resolve this issue, although respondents seemed to feel strongly about whichever approach they themselves chose or advocated. Respondents' comments closely reflected LSAC's advice to GLB applicants on this question:

This decision is, of course, very personal and best left to your own good judgment. Because there is some risk that coming out might alienate a

particular decision maker, however, it is probably best to provide some context for any discussion of your sexual orientation. If you have significant accomplishments that relate to your sexual orientation, such as leadership in a student or community group, or significant work experience in a gay-related organization, it almost certainly pays to discuss those accomplishments and experiences in your application. If your sexual orientation can help illuminate some aspect of your background, it may also be worth noting . . . . Finally, if your sexual orientation plays any role in your decision to attend law school or shapes your future career plans, that fact may be worth mentioning in your application.<sup>2</sup>

Survey respondents generally agreed with this advice, although a number of respondents strongly stated their belief that sexual orientation is, or should be, irrelevant to the admission process, as either a positive or a negative factor.

One perhaps surprising result from the survey's admission-related questions was the suspicion with which GLB applicants view both the process and the information that law schools provide. Admission professionals can take a number of relatively easy steps to help reduce this level of suspicion. In general, the more gay-friendly a school's recruitment materials, the more likely a GLB applicant is to trust all of the school's marketing efforts. The school's nondiscrimination policy should include sexual orientation and should be featured in recruitment materials. Those materials also should identify the GLB student organization, if any, and should include among the profiles of faculty, students, or alumni people who are actively working in GLB-related fields. Admissions personnel should be prepared quickly to provide names and contact information for at least one openly gay student, faculty member, or alumnus should an applicant ask. Schools that have a GLB student organization should consider providing the names of self-identifying GLB applicants to that group so that it can contact them, particularly if a school wishes actively to recruit within its pool of admitted applicants. Finally, recruiters should be aware of the actual climate at their schools for GLB students and be prepared to discuss it honestly and openly. If there have been problems, recruiters should discuss them along with any resolution or solution that was reached. Potential students are apt to find out about them from one source or another in any event.

### **The Law School Climate<sup>3</sup>**

Over fifteen years ago, Bernice Sandler and her colleague Roberta Hall began studying and writing about the chilly classroom climate for women college students.<sup>4</sup> More recently scholars have taken a look at the law school classroom and assessed its chilly impact on women, racial minorities, and gay

2. Law School Admission Council, *Out and In: Information for Gay, Lesbian, and Bisexual Law School Applicants* (Newtown, 1996).
3. Patricia A. Cain is the principal author of this section and occasionally speaks as "I."
4. See, e.g., Roberta M. Hall & Bernice R. Sandler, *The Classroom Climate: A Chilly One for Women?* (Washington, 1982); Roberta M. Hall & Bernice R. Sandler, *Out of the Classroom: A Chilly Campus Climate for Women?* (Washington, 1984).



and lesbian students.<sup>5</sup> In January 1986 I chaired a workshop at the AALS annual meeting that addressed some of these issues. The student panel reported that women became disempowered in law school, that issues of race were not handled well in the classroom, and that gay and lesbian students felt invisible. A lesbian student from California spoke not only about the pain of having teachers presume that GLB people did not exist, but also of the loss suffered when the legal issues important to her community were completely ignored in class. She cited a trusts and estates class that never once mentioned the testamentary capacity questions that arise in the AIDS community or the special problems that arise in drafting wills and trusts for same-sex couples.

The responses to the law student survey show that classroom coverage of GLB issues may have improved, but many GLB students still have cause for concern. And the overall law school climate remains on the chilly side for many GLB students.

### *The Classroom Climate*

Eighty-seven percent of the students responding reported that GLB issues had been addressed in at least one of their classes. Not surprisingly, most of the students who reported that GLB issues had been addressed (147 out of 269) said it was in their constitutional law class. Only 36 listed wills, trusts, and estates. The three Supreme Court cases dealing with GLB legal questions, all decided after January 1986,<sup>6</sup> have certainly contributed to the visibility of GLB issues in law school.

Visibility alone, however, does not necessarily improve the comfort level for GLB students. Respondents complained about the way certain GLB topics were covered in class (e.g., "no critique of *Bowers v. Hardwick*," "discussion of *Bowers v. Hardwick* rushed through in 5 minutes") and spoke of their own hesitancy to discuss GLB issues in class. In response to the question "How comfortable are you discussing GLB issues in class?" 23 percent answered "very comfortable," 31 percent said "somewhat comfortable," 45 percent said "somewhat uncomfortable," and 1 percent said "very uncomfortable." This distribution was roughly replicated within particular schools, at least in those schools that generated a relatively large number of responses.<sup>7</sup>

The fact that a majority of the students responding feel comfortable talking about GLB issues in class is a positive sign. The open-ended responses from

5. Scott N. Ithrig, Note, *Sexual Orientation in Law School: Experiences of Gay, Lesbian, and Bisexual Law Students*, 14 *Law & Ineq.* 555 (1996); Judith D. Fischer, *Portia Unbound: The Effects of a Supportive Law School Environment on Women and Minority Students*, 7 *UCLA Women's L.J.* 81 (1996); Lani Guinier et al., *Becoming Gentlemen: Women's Experiences at One Ivy League Law School*, 143 *U. Pa. L. Rev.* 1 (1994); Frances Lee Ansley, *Race and the Core Curriculum in Legal Education*, 79 *Cal. L. Rev.* 1511 (1991); Catherine Weiss & Louise Melling, *The Legal Education of Twenty Women*, 40 *Stan. L. Rev.* 1299 (1988).
6. *Bowers v. Hardwick*, 478 U.S. 186 (1986); *Hurley v. Irish-American Gay, Lesbian and Bisexual Group of Boston*, 515 U.S. 557 (1995); *Romer v. Evans*, 517 U.S. 620 (1996).
7. Of course, the number of responses from even the best-represented schools is still small as a statistical matter.

students who described themselves as uncomfortable provide us with information that may be useful in gauging the climate in our own classrooms.<sup>8</sup>

My school has a very conservative student body. I'll never forget the first time a G/L issue was raised in class—my entire section sort of snickered, as if there were something dirty about the topic. From that point on, I became uncomfortable discussing G/L issues in class.

Despite the fact that I was out before coming to law school, other students make life difficult for GLBT students. There isn't any direct harassment, but no matter how often you tell people, they assume you're not gay—there seems to be a strong pressure to conform with heterosexuality.

The only time I was uncomfortable was in Real Property because the professor was very obviously homophobic. On the other hand, my comfort with other classes was because those professors had educated and informed opinions.

I feel that my views are in a distinct minority and are often not received well by other students, which makes me apprehensive in sharing. My classmates are my future coworkers and colleagues. I'd like to maintain somewhat of a good relationship with them.

Not always relevant to a legal issue. Don't want to be in a position where I am considered to speak for all gay men.

I am only somewhat comfortable in this environment because I get tired of being the only person talking and, too, I tire of listening to the silence that follows. Gays and lesbians are not issues here, unless a student makes them issues.

The more I become comfortable discussing issues in private with classmates, I feel more comfortable discussing them in front of the whole class. Professors don't seem comfortable discussing them, therefore I don't either.

Most professors don't think about GLB issues very much—consequently, they make you feel that your comments are irrelevant or worthy only due to self-interest.

General lack of acknowledgment that there are gay students in the class by the professor. Assume everyone is straight.

There is silence when a question is asked and sometimes murmurs and laughing.

I'm open about my own sexuality when the issue is relevant, but I don't enjoy listening to someone who "emotes" during a class. Unfortunately, saying anything about LGB issues sounds like "emoting" to heterosexual ears.

It's hardest to discuss gay issues in your first year of law school because it usually involves coming out to your entire class. After you're out, it's much easier to bring up gay issues in and out of class.

I am, perhaps, not as comfortable as I am bold. Because the environment at the school is "less than friendly" it takes a good deal of nerve to raise issues relating to sexual orientation in many classes.

8. The question read: "Briefly describe why you are, or are not, comfortable discussing GLB issues in class."

Profs are generally gay/lesbian positive, but students here tend to be homophobic.

Many of the students reported that their comfort level was primarily affected by the individual teacher or the subject matter of the class. For some, it was easier to discuss topics if someone else brought them up or if the materials raised the issues. Students who described their schools as conservative reported that they sometimes went back into the closet in law school. And often, even in law schools with gay-positive faculties and administrations, students reported that the student body seemed homophobic. When teachers dare to raise these issues themselves in class, students report that we are sometimes successful, but other times thwarted by students' snickering and similar reactions. Silence is not a good answer to such responses.

#### *The Climate in the Law School Community*

Those of us who teach, and who have contact with students primarily in class or in our offices, should become aware of the general climate for GLB students in the law school building. For example, I raise lesbian and gay issues in my classroom, and I include lesbian and gay clients in the problems I assign. It helps that the trusts and estates book I use also raises lesbian and gay issues. If my only knowledge came from my contact with students in the classroom, I might believe that my school is completely devoid of homophobia. But that is not the case. Because I am an out lesbian, students come to me to report incidents that trouble them. Some of these incidents occur in other classrooms. The faculty do not seem to be the problem. Rather, problems arise with other students. GLB posters are defaced in the halls. Sometimes signs are posted with negative words or images of GLB people. These incidents affect the entire climate in the building, and I believe it is useful for all faculty and administrators to understand this climate.

In response to the question "Have you ever experienced homophobia in your law school?" 66 percent of the students responding reported that they had (52 percent "occasionally" and 14 percent "frequently"). Descriptions of homophobic events included incidents with other students and with teachers.<sup>9</sup> For those of us who are unaware of such incidents, the following examples are informative. Some of these may be occurring at your own school, and you may not know about them. Yet they affect the climate for all.

My rainbow flag on my locker was defaced several times. Things such as "Gay Boy Die" were scrawled onto it, and when it was replaced, it was simply removed.

All have involved students and incidents have been limited to homophobic jokes and/or comments made in conversation.

Commentary in the classroom. Skits at the law school smoker. All of these involve students, but with the implicit consent of the faculty, who do not correct or control classroom statements or class discussion.

9. The questionnaire asked: "Please briefly describe any homophobia you have experienced in law school including the nature of the incident(s), who was involved, and the outcome(s)."

My assigned first-year partner for Research and Writing said she had a problem with me being a lesbian. In the front of one of my classrooms someone wrote "Queens must die in '96."

I have observed threats of violence and derogatory comments written on walls/blackboards. I have been the brunt of jokes that I know of—on two occasions.

One professor won't interact with me on the same level as other students in the class.

I was named a Dean's Fellow for my third year. The dean's office posted the names of all fellows and someone wrote "Fag" next to my name.

Graffiti on the wall (removed after a month of yelling and screaming). Letter from homophobic person in my mailbox after we asked for comments pertaining to our antihomophobia poster around school.

The Student Bar Association attempted to cut the group's budget because we would not disclose a membership list. We appealed and our funding was reinstated.

A guy running for student government who talked about "those people" being a problem.

### *Summary and Recommendations*

Classroom discussion of GLB legal issues can be fraught with worry for some GLB students. Some survey respondents report being mocked for their views in class. Others fear being seen as a one-issue person and having their opinions on other issues devalued, while others hope to avoid discussing GLB issues at all for fear of outing themselves before they are ready. Teachers can reduce some of these worries by raising GLB-related issues themselves in class or in their choice of materials, and by raising them in a manner that suggests they are serious and substantive. Nonsubstantive, mocking comments should be dealt with in the same way that such comments on other issues are handled. When students express views that are based on stereotypes or misinformation about lesbians or gays, teachers should probe the basis, or lack thereof, for those views. Faculty also can try to include GLB people in their classroom hypotheticals, role-playing scenarios, or research assignments. This device also can help challenge students' assumptions about other people and better prepare them for real-world practice experiences.

Many respondents reported that they let stray comments and jokes outside the classroom pass without confronting the speaker or taking any other action. Thus it seems that many hurtful comments and incidents remain unchecked, and the actors may themselves remain unaware that their words or deeds can hurt. Particularly in an environment where such incidents occur without response, faculty and administrators, both gay and straight, must be as visibly supportive as possible. Support can come in many forms, from posting GLB-related materials on office bulletin boards to attending GLB student organization meetings and events. Such visible support from faculty and staff can provide a great deal of comfort to students in the face of peer homophobia.

**GLB Student Organizations<sup>10</sup>**

The 41 GLB student organizations responding to the separate questionnaire designed for them run the gamut from active and effective organizations to the nonfunctional. The survey responses also mirror, to a large extent, my six years of experience as the faculty adviser to Southwestern University's GLB student organization. My hope is that this discussion can help students, faculty, and administrators to understand the importance of these student organizations and the ways in which the organizations can enrich both individual students' lives and overall law school environments.

*An Overview of the Student Organization Surveys*

Organizations responded from large urban public and private schools, small public and private schools in small cities and rural areas, and places in between. The sample likely underrepresents—to what degree we simply do not know—the total number of GLB student organizations. Given the sample's broad range, however, it is fair to assume that the responses fairly and substantially represent the range of GLB student organizations in U.S. and Canadian law schools.

One caveat is the concentration of responses from certain geographic areas (the Northeast, Midwest, and West) and the paucity—or absence—of responses from schools in the South. Whether these patterns reflect the presence or nonpresence of GLB student organizations or are a product of some other variable, such as lack of known contact people through whom to distribute the survey, is difficult to ascertain.

*Goals of GLB Law Student Organizations: Closets, Classes, and Jobs*

Why have GLB law student organizations? On one level the answer seems obvious: like any minority group, GLB students can find their needs articulated and even met through organizing. In other ways, though, GLB student groups serve unique functions, particularly in raising visibility in the law school environment. The survey responses in this respect were not surprising; when asked to describe an organization's goals, most responded that social, educational, and professional goals were of primary importance.

**Organizing, Socializing, and Coming Out**

Given the potential invisibility of GLB students, the social aspect of GLB student organizations is perhaps more complex than for other minority student groups. In my experience, as confirmed by individual survey responses, many if not most GLB law students are closeted on campus—even those who are out in other areas of their lives. Many factors seem to contribute: fear of peer hostility in a highly pressured environment where students spend large amounts of time together in class and on campus; outright homophobia from students and faculty; and concerns about employability. Particularly for first-

10. J. Kelly Strader is the author of this section and occasionally speaks in the first person.

year GLB students, a student organization can provide what they perceive to be the only safe environment on campus in which they can be themselves.

A student organization's accepting social environment can affect both individual students' decisions to come out and the broader visibility of GLB students on campus. At Southwestern, for example, a GLB student group apparently existed for a brief time during the 1980s, but began functioning on an ongoing basis in the summer of 1991, just before I began teaching as the first openly gay faculty member at the school. The student organization has since had its ups and downs, but it seems to have developed a momentum largely propelled by the sense of responsibility the organization's leaders have felt to other GLB students and to the broader community.

The student surveys also confirm my observation that peer pressure, more than any other factor, keeps law students in the closet and makes the functioning of student groups difficult. More than once I have seen a student start to enter a room where we were about to conduct a meeting, only to appear to lose nerve when the student thought he or she might be seen by other students. Indeed, we have had substantially better attendance at off-campus events than at on-campus meetings, though most GLB group meetings reportedly occur in law schools.<sup>11</sup> The most effective way to draw students into the GLB organizations appears to be to hold gatherings both on law school grounds—where the meetings can aid visibility—and off grounds, where otherwise invisible GLB students invariably appear.

It can also be enormously helpful for students who may not be comfortable being out to see fellow organization members not only survive but thrive as out members of the law school community. Several survey responses indicated that GLB organization leaders also served in leadership capacities in the broader law school community. This, too, conforms with my experience as the GLB organization adviser. In fact, on occasion students who were closeted at the beginning of law school have developed sufficient self-confidence through the visibility of GLB faculty and students both to come out and to become leaders on campus.

The GLB student organization surveys show that the organizations vary widely in the degree to which they are active. Some say that they are inactive and exist in name only; some have the occasional meeting on campus and not much else; some have occasional off-campus gatherings; and some are active and well organized, cosponsoring events both with other law schools and with local bar associations.

### Building Bridges and Informing the Debate

The "educational" purpose listed by most organizations seems to have two meanings: to educate the law school communities about issues affecting the GLB community and to provide forums for addressing policy matters of

11. Seventy percent of organizational respondents said that the organization usually meets in the law school. One organization specifically noted that it occasionally holds meetings "in off-campus apartments so that we reach closeted members."

importance to GLB students and others. As to the former, the GLB student organizations—and their faculty advisers—have a continuing role to play in ensuring that students, faculty, staff, and administrators are informed of the issues GLB students face. It always startles me when my gay-friendly colleagues do not realize that the fight against homophobia is ongoing. The surprise people express at the ubiquitousness of verbal gay-bashing—which, sadly, emanates not just from students but also, on occasion, from faculty—is understandable, perhaps. But this lack of perspective only underscores the need to educate not just students but also faculty and administrators about the constant difficulties faced both by GLB student organizations and by individual students.

As for reaching out to the student community, many surveys said that one important function of these organizations is simply to publicize their own existence. They do this in a number of ways, from posting flyers and announcements to participating in orientation sessions and displaying materials marking events such as National Coming Out Day.

Most organizations also sponsor events discussing current topics. Same-sex marriage and *Romer v. Evans* seem to have been the most popular recent topics. Other events have included diversity panels and talks by local GLB attorneys and political leaders. Very often, GLB student groups cosponsor these events with other student groups, ranging from the Federalist Society to women's groups and minority group organizations. The advantages to cosponsorship are varied, from simply increasing attendance at the events to drawing audience members who for whatever reason—like not wanting to be identified as lesbian or gay by mere presence at a GLB-sponsored event—might not otherwise attend.

These events are also useful in helping GLB organizations to connect with other minority group organizations. Some surveys noted that other minority groups are sometimes hesitant to affiliate, or even identify, with GLB groups. Our experience at Southwestern has been that simple persistence has paid off; we now both cosponsor events with other minority groups and are included in minority group events, such as the SBA-sponsored Cultural Food Fair (where, to the delight of some of our members and the dismay of others, we have sold fruit tarts).

#### Paying Off the Student Loans

Along with social and educational goals, most of the GLB organizations listed professional goals among their priorities. The surveys themselves are seldom specific on this topic. A number of the organizations did say they were involved with local GLB bar associations and cosponsored events with them. From my experience at Southwestern, I think GLB groups may not be as well organized as some other minority student groups in reaching out to alumni within the community for mentoring and professional development purposes.

A number of organizations reported that students decline to become involved for fear of being outed in the job-search process. This is not an unreasonable fear, of course, given the realities of homophobia even in large

urban areas in our country.<sup>12</sup> Assuming a student can get over the hurdle of being afraid even to attend a meeting, this is one area where I have found the GLB student group to be of real help. Students can articulate their concerns in a setting where other students—including some who have worked in law firms—can provide useful insight. “Would you really want to work in a place that wouldn’t hire you because you’re gay?” Some would respond, “Well, yes, if it’s the only way to pay off my loans.” Just talking about this issue can be enormously useful to students, and alone is a reason for maintaining an active GLB group.

### *Building and Maintaining an Active GLB Student Group*

The surveys reflect the difficulty in maintaining an ongoing, active student group at most schools. Of the 40 schools responding to the question about membership, nearly a quarter reported membership of 10 or fewer students, and nearly half reported membership of 10 to 20; only 12 schools reported membership of more than 20. Organizations typically engage in outreach to new members through orientation programs, announcements, posters, and letters and e-mail to all incoming students. Few organizations impose any membership criteria, and most seem to welcome non-GLB members.

The responses show that some schools, particularly among those in large urban areas, have what appears to be a tradition of consistently active student groups. But most schools report difficulties maintaining active groups, and a number report groups that either consist of just a few students or are inactive. Other groups report difficulty in finding students willing to spend the time to organize and help run the organizations. Most of the groups (53 percent) do not meet regularly, but only when there is a particular reason to do so. Of those organizations reporting a regular meeting schedule, one organization reported weekly meetings, six reported biweekly meetings, and twelve reported monthly meetings.

Some of the most useful survey information deals with factors that seem to contribute to the existence of effective organizations. Given the tenuousness of many GLB groups’ existence, this information should be helpful to groups that are just forming or are having difficulty sustaining interest.

### Getting Your School’s Support

It appears from the surveys that most of the successful organizations have strong support from their schools’ administrations; on the other hand, administrative indifference or hostility can be the death knell for GLB student groups. Among the positive factors are financial support—the average GLB group budget is over \$800—and psychological support.<sup>13</sup> The latter can come

12. See, e.g., Deborah L. Rhode, *Anti-Gay Prejudice Persists in Legal Workplace*, Nat’l. L.J., Dec. 16, 1996, at A15 (detailing pervasive homophobia documented in studies undertaken by bar associations in Los Angeles, New York, and San Francisco).

13. Annual budgets for student organizations, as reported by the survey responses, range from zero to \$4,500, with an average of \$832. Most of the funds are institutional, coming from the law schools, universities, or school-funded Student Bar Associations. About a third of the groups also engage in independent fundraising, such as special events and outreach to alumni and community organizations.



in many guises; a number of groups found it enormously important that their schools' nondiscrimination clauses include sexual orientation. Other groups cited the support of gay or gay-friendly faculty and administrators as contributing to their success.

I can attest that enthusiastic administrative support—particularly from the dean's office—can make all the difference for student attitudes. Symbolically important policies—such as the promotion of our nondiscrimination policy, the early granting of domestic partnership benefits to GLB faculty and staff, and the offering of a Law and Sexual Orientation course—give our students confidence that the school's support is consistent and unwavering.

Not all groups are lucky enough to be able to count on their administration's support; some survey responses painted pictures that are downright bleak. One student group reported, for example, that open hostility from the school administration led the group to forgo any public role at the school. Other groups reported that faculty made comments they perceived to be homophobic, contributing to generally hostile environments. Finally, and as I discuss more fully below, a number of groups report that military recruiting on law school grounds has substantially affected morale within their organizations.

#### Countering GLB Student Apathy

Apart from lack of institutional support, the single factor that most groups noted as a hindrance to their functioning was apathy among GLB students. As one group responded, "The main problem is lack of interest. We're all law students and we don't have a lot of time." At many schools, groups reported that GLB students are unwilling to take on leadership roles because of lack of both time and interest. Another frequent comment is that many GLB law students remain closeted, reducing the number of group participants. For example, one group reported: "Our big frustration is getting students to 'open up' or 'come out.' Those of us who are comfortable being out have spent a lot of time trying to figure out how to possibly be more supportive—but it is a bit frustrating." Several organizations reported that their organizations have become dormant, or have gone out of existence; one group reported that, two years after it formed, "it basically died due to both fear and malaise."

It is perhaps an obvious point, but the presence of a consistently visible GLB student organization is the best way to overcome apathy. If students feel that they are missing out on social, educational, and professional support from their fellow GLB students, they may make the effort to become involved.

#### Informing the Law School Community Ethos

Other groups report that student attitudes can create a hostile atmosphere. Signs and announcements are defaced or removed, and fellow students make jokes or other hostile remarks that both reduce morale and keep students in the closet. We have faced all of these problems at Southwestern over the years. Consistent visibility, however, has its own rewards; the people who tear down and deface signs and fliers may just lose interest when it becomes obvious that

the GLB group isn't going to go away. Public forums are also useful educational vehicles, particularly where they are structured to draw in the larger law school community.

### Getting Faculty Involved

Except at the handful of schools—usually in large cities—where there are large, consistently active GLB student groups, most groups function sporadically at best. If those groups are lucky enough to have committed faculty advisers, my bet is that most of those advisers are largely responsible for the groups' ongoing existence. Consistency of student leadership is a problem mentioned in a large number of surveys, and the presence of a faculty adviser often provides the only continuity in these organizations.

The presence of out faculty in general is another tremendous morale booster, particularly for organizations in schools outside large cities. As one organization wrote, "We have several out gay/lesbian faculty, which helps us, if for no other reason than to keep issues visible at the faculty level. We're in a small town and it can be hard not having a vibrant GLB community to retreat into after class."

### Forging Community Ties

In locales with active GLB bar associations, student organizations' ties to those associations can prove helpful. A number of groups reported that they cosponsored speakers, panels, and other events with local GLB bar organizations. The student groups reported that forming ties with the local bar associations eased fears of being out in job searching and reduced the students' sense of isolation.

### *Postscript—"JAG, JAG, JAG, JAG, JAG"*<sup>14</sup>

Of all the reported difficulties facing GLB law student organizations, none seems to resonate quite so powerfully as on-campus military recruiting. Nearly a quarter of the groups reported organizing protests against military recruiting; several others described the presence of military recruiters as the most significant problem facing the organizations. The "problem" is that a school that allows recruiting by organizations that discriminate appears to sanction discrimination. In this situation, it is inevitable that GLB students will feel that the safety and support of their educational environments are threatened.

The problem will only get worse. In 1996, Congress revised the Solomon Amendment to cut off federal student aid funds to law schools that do not allow military recruiters to interview on their premises.<sup>15</sup> Now that law schools

14. One response to the survey question "Please briefly describe any problems . . . the organization has encountered over the last three years . . ."
15. The first Solomon Amendment, National Defense Authorization Act for Fiscal Year 1995, Pub. L. No. 103-337, § 558, 108 Stat. 2663, 2776 (1994), now dubbed Solomon I, sought to cut off defense research contracts and grants, and defense loans and grants, to institutions that restricted military recruiting. Because few law schools receive such funds, the amendment had little practical effect. By extending the funding cut-off threats to federally funded financial aid programs, the revised Solomon Amendment, Omnibus Consolidated Appro-

are being targeted under this statute, military recruiting on law school campuses will increase, perhaps dramatically. To admit a military recruiter, however, places a law school in potential violation of its own nondiscrimination policies and those of the AALS.<sup>16</sup>

The AALS has stated that schools not in compliance with the nondiscrimination policy must take steps to ameliorate the negative effects the military's presence has on the learning environment of GLB law students.<sup>17</sup> Among the ameliorative steps the AALS specifically sets forth are efforts to ensure the presence of an "active" GLB student organization in any law school that admits military recruiters. Specifically:

For purposes of compliance with the bylaws, schools that choose to permit access to the military may demonstrate adequate "amelioration" by a number of different actions. . . . Although no specific type of amelioration is required, the [AALS] Executive Committee will examine the actions schools take in the context of the totality of the school's efforts to support an hospitable environment for its students. In assessing that environment, the Association will consider, among other things, the *presence of an active lesbian and gay student organization* and the presence of openly lesbian and gay faculty and staff.<sup>18</sup>

priations Act of 1997, Pub. L. No. 104-208, § 514(b), 110 Stat. 3009, 3009-271 (1996) (Solomon II), has the potential, according to the Association of American Law Schools, to affect nearly 90 percent of American law schools. Memorandum 97-46 from Carl C. Monk, Executive Director, to Deans of Member and Fee-Paid Schools, at 2 (Aug. 13, 1997).

As the dean of the Duke University School of Law recently wrote, "In passing the revised Solomon Amendment in 1996, Congress has put law schools in a terrible bind: Either go against school policies of nondiscrimination by allowing military recruiters to interview on their premises or lose hundreds of thousands of dollars in federal student aid." Pamela B. Gann, *No-Win Amendment Traps Law Schools*, Nat'l. L.J., Oct. 13, 1997, at A23.

16. In 1990 the AALS added "sexual orientation" to its nondiscrimination provisions. To further that policy, AALS Executive Committee Regulation 6.19 requires law school career services offices to obtain from recruiters written assurance that the potential employer does not discriminate based on categories that include sexual orientation.

The importance of the AALS policy was not lost on Justice Antonin Scalia, dissenting in *Romer v. Evans*, 517 U.S. 620 (1996):

The interviewer may refuse to offer a job because the applicant is a Republican; because he is an adulterer; because he went to the wrong prep school or belongs to the wrong country club; because he eats snails; because he is a womanizer; because she wears real-animal fur; or even because he hates the Chicago Cubs. But if the interviewer should wish not to be an associate or partner of an applicant because he disapproves of the applicant's homosexuality, then he will have violated the pledge which the Association of American Law Schools requires all its member-schools to exact from job interviewers: "assurance of the employer's willingness" to hire homosexuals.

*Id.* at 652-53 (Scalia, J., dissenting) (quoting Bylaws of the Association of American Law Schools, Inc. § 6-4(b); Executive Committee Regulations of the Association of American Law Schools § 6.19, in 1995 Handbook, Association of American Law Schools 50 (Washington, 1995)).

17. Memorandum 97-46, *supra* note 15, at 2-3. A copy of the memorandum was also sent to the chair of the AALS Section on Gay and Lesbian Legal Issues.

18. *Id.* at 3 (emphasis added).

In this light, more is at stake for law schools than the important goals of supporting their GLB students and educating those in the law school community through the presence of active student organizations. Now a law school may have an affirmative duty to support GLB student organizations if a school wishes to remain in compliance with AALS bylaws and regulations. Given the difficulties, outlined above, in maintaining active GLB student groups, such affirmative institutional support is long overdue at many law schools; certainly all schools can benefit from a new—or renewed—focus on the quality of their GLB students' educational environments.