

No. 21-476

IN THE
Supreme Court of the United States

303 CREATIVE LLC, A LIMITED LIABILITY COMPANY;
LORIE SMITH,
Petitioners,

v.

AUBREY ELENIS; CHARLES GARCIA; AJAY MENON;
MIGUEL RENE ELIAS; RICHARD LEWIS;
KENDRA ANDERSON; SERGIO CORDOVA; JESSICA POCOCK;
PHIL WEISER,
Respondents.

On Writ of Certiorari to the
United States Court of Appeals for the
Tenth Circuit

**BRIEF OF THE AMERICAN PSYCHOLOGICAL
ASSOCIATION, NATIONAL ASSOCIATION OF SOCIAL
WORKERS, AND COLORADO PSYCHOLOGICAL
ASSOCIATION AS *AMICI CURIAE*
IN SUPPORT OF RESPONDENTS**

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INTERESTS OF *AMICI CURIAE*¹

Amici curiae are leading associations of psychologists and social workers.

The American Psychological Association (“APA”) is a scientific and educational organization dedicated to increasing and disseminating psychological knowledge. With more than 133,000 members and affiliates, APA is the world’s largest professional association of psychologists.

Psychology is a diverse discipline grounded in the rigorous application of the scientific method to the study of the mind and human behavior. APA is well-positioned to offer scientific insights regarding important social and psychological phenomena, including the stigma experienced by lesbian, gay, and bisexual people and others, and the negative health consequences of that stigma.

Since APA was founded in 1892, public engagement has been a key element of its mission. APA seeks “to advance ... the application of research findings to the promotion of health, education, and the public welfare.”² As part of that mission, APA has submitted over 200 briefs as *amicus curiae* in this Court and other federal and state courts.

¹ The parties have consented to the filing of this brief. No party or counsel for any party authored this brief in whole or in part. Only *amici* and counsel for *amici* funded its preparation and submission.

² APA, *Bylaws of the American Psychological Association. Article I: Objects* (2008), <https://bit.ly/3dAIuBZ>.

APA has also adopted numerous research-based policy statements denouncing discrimination against gay and lesbian people in public accommodations³ and supporting the right to same-sex marriage.⁴ APA has issued additional research-based policy statements condemning discrimination⁵ against people on the basis of sexual orientation,⁶ disability,⁷ race,⁸ religion,⁹ gender identity,¹⁰ and nationality.¹¹

³ John J. Conger, APA, *Proceedings of the American Psychological Association, Incorporated, for the Year 1974: Minutes of the Annual Meeting of the Council of Representatives*, 30 *Am. Psychol.* 620 (1975).

⁴ APA, *Resolution on Marriage Equality For Same-Sex Couples* (2011).

⁵ APA, *APA Resolution on Prejudice, Stereotypes, and Discrimination* (2006).

⁶ APA, *Resolution on Opposing Discriminatory Laws, Policies, and Practices Aimed at LGBTQ+ Persons* (2019).

⁷ APA, *Resolution in Support of the U.N. Convention on the Rights of Persons with Disabilities* (2014); APA, *APA Resolution on Support of Universal Design and Accessibility in Education, Training and Practice* (2019); APA, *Resolution on Stigma and Discrimination Against People with Serious Mental Illness and Severe Emotional Disturbance* (1999).

⁸ APA, *Role of Psychology and the APA in Dismantling Systemic Racism Against People of Color in the U.S.* (2021).

⁹ APA, *Resolution on Religious, Religion-Based and/or Religion-Derived Prejudice* (2007); APA, *Resolution on Anti-Semitic and Anti-Jewish Prejudice* (2007).

¹⁰ APA, *APA Resolution on Transgender, Gender Identity, and Gender Expression Non-Discrimination* (2008).

¹¹ APA, *APA Resolution on Immigrant Children, Youth, and Families* (2008).

The National Association of Social Workers (“NASW”) is the largest association of social workers in the United States with 110,000 members in 55 chapters. Since 1955, NASW has worked to develop high standards of social work practice while unifying the social work profession. NASW promulgates professional policies, conducts research, publishes professional studies and books, provides continuing education, and promotes and administers the NASW Code of Ethics. The NASW National Committee on Lesbian, Gay, Bisexual, Transgender, and Queer/Questioning+ (“LGBTQ+”) Issues develops, reviews, and monitors NASW programs that significantly affect LGBTQ+ people. Consistent with NASW policy statements, NASW, including its Colorado Chapter, supports full human rights and the end to discrimination on the basis of sexual orientation, gender identity, gender expression, and other protected characteristics.

The Colorado Psychological Association (“CPA”) advances the profession of psychology through advocacy and education for the promotion of psychological health and well-being. Founded in 1946, CPA aims to be the voice of psychology in the State of Colorado by representing all sectors and specialty areas within the field of psychology. Membership and participation in CPA is one way Colorado psychologists demonstrate their commitment to psychology as a vital profession of the highest standards. CPA remains committed to upholding the APA Ethical Guidelines, which make clear that psychologists must advocate for and protect the civil rights of others. CPA is steadfast in its

commitment to standing with and as people: people of all races, ethnicities, immigration statuses, religions, genders, sexual orientations, socioeconomic statuses, ages, education levels, abilities, and sizes.

SUMMARY OF ARGUMENT

Amici curiae present this brief to provide the Court with a review of the pertinent scientific and professional literature on how laws like the Colorado Anti-Discrimination Act (“CADA”)—which prohibits discrimination in public accommodations on the basis of sexual orientation, as well as disability, race, religion, sex, gender identity and expression, and nationality—help mitigate the stigma associated with these statuses and its psychological and physical harms.¹²

Social scientists define a stigmatized status as one that is unjustly negatively valued by society, defines a person’s social identity, and disadvantages and disempowers those who have it. Scientific research shows that many of the classes CADA protects from discrimination—including lesbian, gay, or bisexual people, people with disabilities, people with various racial or religious identities, women, transgender people, and immigrants—are stigmatized and that the experience of stigma is associated with adverse effects on psychological and physical health. Research affirms that anti-discrimination laws like CADA can counteract this stigma and its negative health effects, thereby advancing equal protection under the law for all.

¹² Colo. Rev. Stat. § 24-34-601(2)(a). The statute also prohibits discrimination based on marital status. *Id.*

At the outset, *amici* note that APA has a rigorous approval process for *amicus curiae* briefs, the touchstone of which is an assessment of whether there is sufficient scientific research, data, and literature on a question before a court such that APA can usefully contribute to the court's understanding and resolution of that question. For each study this brief cites, APA has critically evaluated its methodology, including the reliability and validity of the measures and tests the study employed and the quality of the study's data-collection procedures and statistical analyses. Scientific research is a cumulative process, and no empirical study is perfect in its design and execution. Accordingly, the conclusions drawn from the studies cited in this brief are based as much as possible on findings replicated across studies rather than on the findings of any single study. Even well-executed studies may be limited in their implications and generalizability. Many studies discuss their own limitations and provide suggestions for further research. This is consistent with the scientific method and does not impeach these studies' overall conclusions.¹³

¹³ One group of *amici curiae* attack the credibility of other researchers whose work is cited in this brief on the grounds that those researchers have a personal connection to the subject of their research. See Brief of Scholars of Family and Sexuality as *Amici Curiae* in Support of Petitioners at 8. *Ad hominem* attacks of this kind are not consistent with the standards of science, which call for evaluating research based on the quality of the conceptualization, reliability of the methodology, and objectivity of the interpretation of the results, not on the researchers' personal connection to the research topic. These *amici* also take issue with research that relies

ARGUMENT

I. Members of the Classes CADA Protects Are Stigmatized.

A. The nature of stigma

Social scientists generally agree that a stigmatized condition or status is one that is negatively valued by society, defines a person’s social identity, and disadvantages and disempowers those who have it.¹⁴

Stigma can manifest as (1) “stereotyping, prejudice, and discrimination” against stigmatized people in

on self-report rather than objective measurement of stigma and health. *See id.* at 14–15, 19. However, studies that do not depend on self-report have also found discrimination. *See infra* nn. 25–26.

¹⁴ See, for example, Erving Goffman’s classic treatment, which characterized stigma as “an attribute that is deeply discrediting” for the stigmatized person in relationships with those who perceive the attribute as “an undesired differentness.” Erving Goffman, *Stigma* 3, 5 (1963); *see also* Nat’l Academies of Sciences, Engineering, & Medicine, *Understanding the Well-Being of LGBTQI+ Populations* 3–4 (2020), <http://nap.edu/25877> [hereinafter “NASEM Report”] (“The concept of stigma helps explain how dominant cultural beliefs and differences in access to power can lead to labeling, stereotyping, separation, status loss, and discrimination for those who do not align with societal norms.”); Brenda Major & Laurie T. O’Brien, *The Social Psychology of Stigma*, 56 *Ann. Rev. of Psychol.* 394 (2005); Robert H. Aseltine, Jr., et al., *Life Stress, Anger and Anxiety, and Delinquency: An Empirical Test of General Strain Theory*, 41 *J. Health & Soc. Behav.* 256 (2000); Rodney Clark et al., *Racism as a Stressor for African Americans: A Biopsychosocial Model*, 54 *Am. Psychologist* 805 (1999); Bruce G. Link & Jo C. Phelan, *Conceptualizing Stigma*, 27 *Ann. Rev. Soc.* 363 (2001); Jennifer Crocker et al., *Social Stigma*, in 2 *The Handbook of Social Psychology* 504 (Daniel T. Gilbert et al. eds., 4th ed. 1998).

interpersonal interactions and through laws and other sociocultural institutions;¹⁵ (2) expectations of bias arising from prior experiences of stigma, or knowledge of other similarly situated people's experiences of stigma; and (3) negative self-concept caused by internalization of stigma.¹⁶

Laws that permit discrimination against stigmatized groups legitimate prejudicial attitudes and individual enactments of stigma against these groups. By contrast, laws like CADA, which prohibit discrimination against stigmatized groups, counteract stigma.¹⁷

¹⁵ See, e.g., Mark L. Hatzenbuehler, *Structural Stigma: Research Evidence and Implications for Psychological Science*, 71 *Am. Psychologist* 742 (2016); Gregory M. Herek, *Confronting Sexual Stigma and Prejudice: Theory and Practice*, 63 *J. Soc. Issues* 905 (2007); Patrick W. Corrigan et al. *Structural Stigma in State Legislation*, 56 *Psychiatric Serv.* 557 (2005).

¹⁶ Jack F. Dovidio et al., *Physical Health Disparities and Stigma: Race, Sexual Orientation, and Body Weight*, in *The Oxford Handbook of Stigma, Discrimination and Health* 29 (Brenda Major et al. eds., 2018); see also Gregory M. Herek, *Sexual Stigma and Sexual Prejudice in the United States: A Conceptual Framework*, in *Contemporary Perspectives on Lesbian, Gay and Bisexual Identities* 65 (D.A. Hope ed., 2009); Amy C. Watson & L. Phillip River, *A Social-Cognitive Model of Personal Responses to Stigma*, in *On the Stigma of Mental Illness: Practical Strategies for Research and Social Change* 145 (Patrick W. Corrigan ed., 2005).

¹⁷ See *infra* Part III.

B. Lesbian, gay, and bisexual people experience stigma.

Despite recent changes in the law¹⁸ and favorable subsequent changes in general public opinion,¹⁹ being lesbian, gay, or bisexual²⁰ remains stigmatized, and a substantial portion of LGB people experience discrimination because of their sexuality.²¹

¹⁸ See, e.g., *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731, 1743 (2020); *Obergefell v. Hodges*, 576 U.S. 644, 679-80 (2015); *United States v. Windsor*, 570 U.S. 744, 775 (2013); *Lawrence v. Texas*, 539 U.S. 558, 578 (2003); see generally NASEM Report, *supra* note 14, at 1. But see *Dobbs v. Jackson Women’s Health Org.*, 142 S. Ct. 2228, 2301 (2022) (Thomas, J., concurring). To account for these recent developments, *amici* rely primarily on research going back to 2015 in addressing stigma based on sexual orientation and its health effects.

¹⁹ *LGBT Rights*, Gallup, <https://bit.ly/3QqdgMr> (last visited Aug. 15, 2022); NASEM Report, *supra* note 14, at 1; see also Gregory M. Herek, *Beyond “Homophobia”: Thinking More Clearly About Stigma, Prejudice, and Sexual Orientation*, 85 *Am. J. Orthopsychiatry* S29 (2015); Andrew R. Flores, *National Trends in Public Opinion on LGBT Rights in the United States*, Williams Inst. (2014), <https://bit.ly/3QYubp1>.

²⁰ Lesbian, gay, and bisexual people may be referred to collectively, in shorthand, as “LGB” people. Alternatively, the shorthand “LGBT” or “LGBTQ” may be used to also refer to transgender people, or transgender and queer people, respectively. See NASEM Report, *supra* note 14, at 2. Much of the scientific research in this area addresses the experiences of both LGB people and transgender people, so some of the research described herein addresses the experiences of LGB people and transgender people collectively.

²¹ Sharita Gruberg et al., *The State of the LGBTQ Community in 2020*, Center for American Progress (Oct. 6, 2020),

LGB people remain vulnerable to physical threat, violence, and hate crimes. In a recent national study by Harvard University researchers, 51% of respondents had, or had an LGBTQ friend or family member who had, experienced violence because of their sexuality or gender identity.²² The negative effects of criminal victimization of gay and lesbian people are often compounded by hostile or indifferent reactions from law

<https://ampr.gs/3c3emP4> (documenting ongoing discrimination faced by LGBTQ people due to their sexual orientation and gender identity); Harvard T.H. Chan Sch. of Pub. Health et al., *Discrimination in America: Experiences and Views of LGBTQ Americans* (2017) [hereinafter “Harvard, *Discrimination in America*”]; see also Pew Research Center, *A Survey of LGBTQ Americans: Attitudes, Experiences and Values in Changing Times* (2013) (in nationally-representative sample of LGBTQ adults, two-thirds (66%) reported experiencing discrimination or negative treatment because of their sexual orientation and gender identity).

²² Harvard, *Discrimination in America*, *supra* note 21; see also Nat’l Consortium for the Study of Terrorism & Response to Terrorism, *Research Brief: Motivations and Characteristics of Hate Crime Offenders* (2020), <https://bit.ly/3dyYg0b>; Grace Kena & Alexandra Thompson, U.S. Dep’t of Just., *Hate Crime Victimization, 2005-2019* (2021), <https://bit.ly/3bUttdT> (reporting that, from 2015 to 2019, 218,160 violent hate crimes were motivated by sexual orientation bias, comprising 20% of all violent hate crimes during this period); U.S. Dep’t of Just., *2020 Hate Crime Statistics*, <https://bit.ly/3K5YNmA> (last visited Aug. 16, 2022) (reporting that, in 2020, data reported by 15,138 law enforcement agencies to the FBI, sexual orientation was the bias motivation for 20% of single-bias incidents).

enforcement personnel.²³ LGB youth are also at heightened risk of violence, threats, and bullying.²⁴

²³ Nat'l Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual, Transgender, Queer, and HIV-Affected Hate Violence in 2016* at 34, 41 (2017) (35% of LGBT respondents who had interacted with the police reported that officers were indifferent to them, and 31% reported that officers were hostile; 12% reported being subjected to police misconduct, including excessive force and unjustified arrest); *see also* NASEM Report, *supra* note 14, at 3 (“Mistreatment during interactions with the police and the prison system is a common experience”); Harvard, *Discrimination in America*, *supra* note 21 (reporting that 26% of respondents had been, or had an LGBTQ friend or family member who had been, unfairly stopped or treated by the police or unfairly treated by the courts because of their sexuality or gender identity). One group of *amici curiae* suggests that estimates of discrimination against LGB people have been often overstated, relying on a flawed comparison between research by Gregory Herek and Ilan H. Meyer et al. and a study by Brian B. Boutwell et al. Brief of Scholars of Family and Sexuality as *Amici Curiae* in Support of Petitioners 8–10. The stigma measured by Herek and Meyer et al. is more severe (*e.g.*, criminal victimization, harassment and threats, and employment and housing discrimination) than the discrimination measured by Boutwell et al. (*e.g.*, being treated with less respect or courtesy than others) and is thus likely to be less frequent. Ilan H. Meyer et al., *Minority Stress, Distress, and Suicide Attempts in Three Cohorts of Sexual Minority Adults: A U.S. Probability Sample*, 16 PLoS ONE e0246827 (2021); Gregory M. Herek, *Hate Crimes and Stigma-Related Experiences Among Sexual Minority Adults in the United States: Prevalence Estimates From a National Probability Sample*, 24 J. Interpersonal Violence 54 (2009); Brian B. Boutwell et al., *The Prevalence of Discrimination Across Racial Groups in Contemporary America: Results from a Nationally Representative Sample of Adults*, 12 PLoS One e0183356 (2017).

²⁴ Based on their Youth Risk Behavior Survey, the U.S. Centers for Disease Control and Prevention (“CDC”) found that from 2015 to

LGB people continue to face discrimination in other spheres as well, including housing and employment. A recent U.S. Department of Housing and Urban Development field experiment found that housing providers favored heterosexual couples over otherwise identical same-sex couples in approximately 15% of cases.²⁵ The aforementioned Harvard study found at least 20% of LGBTQ people had been discriminated against in pay, job promotion, or applying for jobs because they identify as LGBTQ.²⁶

2019, LGB high school students were significantly more likely than their heterosexual counterparts to report feeling unsafe at school, being threatened or injured with a weapon at school, and being bullied at school or online. Michelle M. Johns et al., *Trends in Violence Victimization and Suicide Risk by Sexual Identity Among High School Students—Youth Risk Behavior Survey, United States, 2015-2019*, 69 *Morbidity & Mortality Weekly Report: Supplement* 19 (2020).

²⁵ Samantha Friedman et al., U.S. Dep't of Housing & Urban Development, *An Estimate of Housing Discrimination Against Same-Sex Couples* vi (2013); see also Diane K. Levy et al., *Research Report: A Paired-Tested Pilot Study of Housing Discrimination Against Same-Sex Couples and Transgender Individuals*, Urban Inst. (2017), <https://urbn.is/3whifqF>; Harvard, *Discrimination in America*, *supra* note 21 (reporting that 22% of LGBTQ respondents had been, or had an LGBTQ friend or family member who had been, discriminated against because of their sexuality or gender when trying to rent a room or apartment or buy a house); Christy Mallor & Brad Sears, *Evidence of Housing Discrimination Based on Sexual Orientation and Gender Identity: An Analysis of Complaints Filed with State Enforcement Agencies, 2008-2014*, Williams Inst. (Feb. 2016), <https://bit.ly/3bWYEFi>; NASEM Report, *supra* note 14, at 7.

²⁶ Harvard, *Discrimination in America*, *supra* note 21; see also;

C. Members of other classes CADA protects experience stigma.

The scientific literature shows that members of the other classes CADA protects from discrimination experience stigma of various forms as well.

1. *Disability*

Disability encompasses any condition of the body or mind that makes it difficult to engage in activities and interact with one's environment.²⁷ People with disabilities experience stigma. To illustrate: A study of 233 college students enrolled in a disability course found that public attitudes toward disability, rather than the disabilities alone, negatively affected well-being among people with disabilities—and that study participants with disabilities expected to experience the negative emotional responses associated with the stereotyping, status loss, and discrimination associated with the stigma of disability.²⁸

Emma Mishel, *Discrimination Against Queer Women in the U.S. Workforce: A Resumé Audit Study*, 2 *Socius* 1 (2016); Brad Sears et al., *LGBT People's Experiences of Workplace Discrimination and Harassment*, Williams Inst. (Sept. 2021), <https://bit.ly/3w5HagY> (reporting, from a non-probability sample, that approximately 30% of LGBT respondents had experienced workplace discrimination or harassment in the preceding five years); NASEM Report, *supra* note 14, at 6–7.

²⁷ Eun Ha Namkung & Deborah Carr, *The Psychological Consequences of Disability Over the Life Course: Assessing the Mediating Role of Perceived Interpersonal Discrimination*, 61 *J. Health & Soc. Behav.* 190 (2020).

²⁸ Sara E. Green, *Components of Perceived Stigma and Perceptions*

2. *Race*

Racial minorities experience stigma, which the psychological literature describes in various ways. *Racial trauma*, or race-based stress, refers to the effects of real or perceived racial discrimination—including threats of harm and injury, humiliating and shaming events, and witnessing harm to other people of color due to perceived racism.²⁹ *Racism* more broadly is defined as prejudice, discrimination, and aggression against a subordinate racial group based on attitudes of superiority by the dominant group.³⁰

3. *Religion*

People can experience stigma of various kinds based on their religious identities as well, particularly if they

of Well-Being Among University Students With and Without Disability Experience, 16 Health Soc. Rev. 328 (2007); see also, e.g., Alison Milne, *The ‘D’ Word: Reflections on the Relationship Between Stigma, Discrimination and Dementia*, 19 J. Mental Health 227 (2010) (explaining that stigma exacerbates the existing disability of people with dementia); accord Nori Graham et al., *Reducing Stigma and Discrimination Against Older People With Mental Disorders: A Technical Consensus Statement*, 18 Int’l J. Geriatric Psychiatry 670 (2003).

²⁹ Lillian Comas-Díaz et al., *Racial Trauma: Theory, Research, and Healing: Introduction to the Special Issue*, 74 Am. Psychologist 1, 1 (2019); David R. Williams & Selina A. Mohammed, *Discrimination and Racial Disparities in Health: Evidence and Needed Research*, 32 J. Behav. Med. 20 (2009).

³⁰ Monnica T. Williams et al., *Assessing Racial Trauma Within a DSM-5 Framework: The UConn Racial/Ethnic Stress and Trauma Survey*, 3 Prac. Innovations 242, 243 (2018).

are members of religious minority groups.³¹ One study found that from 2015 to 2019, religious bias motivated 101,230 violent hate crimes, comprising nearly 10% of all recorded violent hate crimes during that period, and 57,540 property-related hate crimes, comprising nearly 50% of all property-related hate crimes during that period.³²

4. *Sex*

Women experience stigma on the basis of sex.³³ *Sexism* refers to the systematic subordination of women

³¹ See, e.g., Dena M. Abbott & Debra Mollen, *Atheism as a Concealable Stigmatized Identity, Anticipated Stigma, and Well-Being*, 46 *Counseling Psychologist* 685 (2018) (discussing stigmatization of atheism, a minority religious view); see also Nat'l Consortium for the Study of Terrorism & Response to Terrorism, *supra* note 22 (reporting that in a study of bias crime offenders during the period 1990-2018, religion was the second most common motivation after race, ethnicity, or nationality); U.S. Dep't of Just., *2020 Hate Crime Statistics*, *supra* note 22 (reporting that, in 2020 data reported by 15,138 law enforcement agencies to the FBI, religion was the second most common bias motivation with 1,244 bias-motivated incidents reported). The U.S. Equal Employment Opportunity Commission reported 2,111 religious discrimination charges files in 2021, 3.4% of the total. U.S. Equal Employment Opportunity Comm'n, *Charge Statistics (Charges filed with EEOC) FY 1997 Through FY 2021*, <https://bit.ly/3K6giCZ> (last visited Aug. 18, 2022).

³² Kena & Thompson, *supra* note 22.

³³ Stigma and discrimination based on sex and gender are often analyzed concurrently. For purposes of this brief, *amici* refer to sex-based stigma and discrimination primarily to discuss research focused on the stigma and discrimination experienced by cisgender women due to their status as cisgender women. A cisgender person

through gender role stereotyping and prejudice, discrimination, demeaning and derogatory comments and behaviors, physical abuse, rape, and unwanted sexual objectification.³⁴

5. Gender

Transgender people³⁵ are stigmatized³⁶ for their gender identity and expression. They experience discrimination in multiple ways, including in public accommodations.³⁷

is a person whose sex assigned at birth aligns with their gender identity. Gender, as distinguished from sex, refers to the attitudes, feelings, and behaviors that a given culture associates with a person's biological sex. APA, *Gender*, APA Style, <https://bit.ly/3SPp3pd> (last updated July 2022).

³⁴ Jillian R. Scheer et al., *Mental Health, Alcohol Use, and Substance Use Correlates of Sexism in a Sample of Gender-Diverse Sexual Minority Women*, 9 Psychol. Sexual Orientation & Gender Diversity 222, 223 (2022); Lucinda L. Parmer, *The Road to Gender Equality: Persisting Obstacles for American Women in the Workforce*, 24 Psychologist-Manager J. 85 (2021).

³⁵ "Transgender" is an umbrella term used to describe the full range of people whose gender identity and/or gender role does not conform to what is typically associated with their sex assigned at birth. APA, *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People*, 70 Am. Psychologist 832 (2015).

³⁶ Jaclyn M. White Hughto et al., *Transgender Stigma and Health: A Critical Review of Stigma Determinants, Mechanisms, and Interventions*, 147 Soc. Sci. Med. 222, 224 (2015).

³⁷ Sari L. Reisner et al., *Legal Protections in Public Accommodations Settings: A Critical Public Health Issue for Transgender and Gender-Nonconforming People*, 93 Milbank Q.

6. Nationality

In the United States, people experience stigma for being immigrants and having a non-American nationality.³⁸ Such stigma often manifests in the form of discrimination based on skin color, language, or membership in a particular ethnic or national group.³⁹

484 (2015) (finding that in 2013, 65% of a Massachusetts community sample of transgender people reported discrimination in public accommodations); Judith Bradford et al., *Experiences of Transgender-Related Discrimination and Implications for Health: Results from the Virginia Transgender Health Initiative Study*, 103 Am. J. Pub. Health 1820 (2013) (finding that in a 2005-2006 Virginia community sample, 41% of respondents reported discrimination related to their gender identity in health care, employment, or housing); Walter O. Bockting et al., *Stigma, Mental Health, and Resilience in an Online Sample of the US Transgender Population*, 103 Am. J. Pub. Health 943 (2013). In the 2017 CDC Youth Risk Behavior Survey, transgender high school students reported respective rates of bullying, weapon threat or injury at school, or feeling unsafe at or traveling to school more than two, three, and five times greater than cisgender males, the reference group in the study. Michelle M. Johns et al., *Transgender Identity and Experiences of Violence Victimization, Substance Use, Suicide Risk, and Sexual Risk Behaviors Among High School Students—19 States and Large Urban School Districts, 2017*, 68 Morbidity & Mortality Weekly Report 69 (2019).

³⁸ Brittany N. Morey, *Mechanisms By Which Anti-Immigrant Stigma Exacerbates Racial/Ethnic Health Disparities*, 108 Am. J. Pub. Health 460, 460–61 (2018).

³⁹ May Ling Halim et al., *Cross-Generational Effects of Discrimination Among Immigrant Mothers: Perceived Discrimination Predicts Child's Healthcare Visits for Illness*, 32 Health Psychol. 203, 203 (2013); May Ling Halim et al., *Perceived Ethnic and Language-Based Discrimination and Latina Immigrant Women's Health*, 22 J. Health Psych. 68, 69 (2017).

For instance, immigrants report that police, educators, and social services providers discriminate against them because of their perceived race and nationality. Immigrants also experience negative interpersonal interactions in their communities, often when their nationality or immigration status is revealed by their limited English proficiency.⁴⁰

II. Stigma Leads to Stress, Which Can Harm Psychological and Physical Health.

A. Stigma can cause stress, which is associated with negative health outcomes.

Discrimination and other forms of stigma can lead to adverse physical and psychological health outcomes for stigmatized groups. In particular, continual exposure to stigma-related events has been shown to negatively affect an individual's self-esteem and cause a reduced sense of security, resulting in chronic physiological and psychological stress. Chronic stress, in turn, increases the risk of adverse psychological and physical health outcomes.⁴¹

⁴⁰ Cecilia Ayón & David Becerra, *Mexican Immigrant Families Under Siege: The Impact of Anti-Immigrant Policies, Discrimination, and the Economic Crisis*, 14 *Advances Soc. Work* 206, 212–18 (2013).

⁴¹ Sheldon Cohen et al., *Strategies for Measuring Stress in Studies of Psychiatric and Physical Disorders*, in *Measuring Stress: A Guide for Health and Social Scientists* 3 (Sheldon Cohen et al. eds., 1995); Tirrill Harris, *Life Events and Health*, in *Cambridge Handbook of Psychology, Health and Medicine* 128 (Susan Ayers et al. eds., 2d ed. 2007).

One line of research has used the *minority stress* framework to demonstrate the stress burdens associated with being a member of a minority group.⁴² Both *distal stressors*—including actual experiences of discrimination and prejudice—as well as *proximal stressors*—such as anticipating experiences of discrimination, concealing one’s identity status, and internalizing stigma—can lead to enhanced stress among stigmatized groups.⁴³

For instance, perceived discrimination can adversely affect health in at least three ways—*first*, through direct effects on health; *second*, through stress responses to experiences of discrimination; and *third*, through the health effects of elevated hormone levels that result from heightened stress responses.⁴⁴

⁴² See, e.g., Ilan H. Meyer, *Prejudice, Social Stress, and Mental Health in Lesbian, Gay, and Bisexual Populations: Conceptual Issues and Research Evidence*, 129 *Psychol. Bull.* 674 (2003).

⁴³ Annesa Flentje et al., *Minority Stress, Structural Stigma, and Physical Health Among Sexual and Gender Minority Individuals: Examining the Relative Strength of the Relationships*, 56 *Annals Behav. Med.* 573, 574 (2022); see also Annesa Flentje et al., *The Relationship Between Minority Stress and Biological Outcomes: A Systematic Review*, 43 *J. Behav. Med.* 673 (2020).

⁴⁴ Elizabeth A. Pascoe & Laura Smart Richman, *Perceived Discrimination and Health: A Meta-Analytic Review*, 135 *Psychol. Bull.* 531 (2009); see also Kate A. Leger et al., *Discrimination and Health: The Mediating Role of Daily Stress Processes*, 41 *Health Psychol.* 332 (2022); Hatzenbuehler, *Structural Stigma*, *supra* note 15, at 745-46; Mark L. Hatzenbuehler, *Structural Stigma and Health*, in *The Oxford Handbook of Stigma, Discrimination and Health* (B. Major et al. eds., 2017); Laura Smart Richman & Mark

The link between experiencing stress and symptoms of psychological or physical illness is well established.⁴⁵ Thus, to the extent members of minority groups and other protected classes are subjected to additional stress beyond what is experienced by others, that additional stress can lead to worsened psychological and physical health outcomes.

B. The stigma faced by LGB people results in chronic stress and adverse health consequences.

For LGB people, being the target of stigma is associated with elevated stress responses, which in turn are linked to adverse physical and psychological health outcomes.⁴⁶

L. Hatzenbuehler, *A Multilevel Analysis of Stigma and Health: Implications for Research and Policy*, 1 *Pol’y Insights from the Behav. & Brain Sci.* 213, 213 (2014).

⁴⁵ See, e.g., Peggy A. Thoits, *Stress and Health: Major Findings and Policy Implications*, 51 *J. Health & Soc. Behav.* S41 (2010); Leonard Pearlin et al., *The Stress Process*, 22 *J. Health & Soc. Behav.* 337 (1981); Leger et al., *supra* note 44; Mark L. Hatzenbuehler et al., *Stigma as a Fundamental Cause of Population Health Inequalities*, 103 *Am. J. Pub. Health* 813 (2013) (discussing evidence of the health consequences of stigma and pathways through which stigma can influence health); Pascoe & Smart Richman, *supra* note 44; see also Michael T. Schmitt et al., *The Consequences of Perceived Discrimination for Psychological Well-Being: A Meta-Analytic Review*, 140 *Psychol. Bull.* 921 (2014).

⁴⁶ Mark L. Hatzenbuehler, *How Does Sexual Minority Stigma “Get Under the Skin”? A Psychological Mediation Framework*, 135 *Psychol. Bull.* 707, 713–21 (2009) (explaining that the greater stress that LGB people experience due to stigma exacerbates emotion

This stress results in negative health effects.⁴⁷ As a population, LGB people manifest more overall psychological and physical health problems than heterosexual people.⁴⁸ Stigma based on sexual

dysregulation, social and interpersonal problems, and cognitive processes that worsen, maintain, or prolong symptoms of depression and anxiety); Lisa M. Diamond & Jenna Alley, *Rethinking Minority Stress: A Social Safety Perspective on the Health Effects of Stigma in Sexually-Diverse and Gender-Diverse Populations*, 138 *Neuroscience & Behav. Revs.* 1 (2022); Flentje et al., *Minority Stress, Structural Stigma, and Physical Health Among Sexual and Gender Minority Individuals*, *supra* note 43; NASEM Report, *supra* note 14, at 7 (“The physical and mental health of [sexual and gender diverse] populations is substantially affected by external influences that include discrimination, stigma, prejudice, and other social, political, and economic determinants of health.”); Nicole D. Cardona et al., *How Minority Stress Becomes Traumatic Invalidiation: An Emotion-Focused Conceptualization of Minority Stress in Sexual and Gender Minority People*, *Clinical Psychol.: Sci. & Prac.* (advanced online publication) (2021), <https://bit.ly/3AnhnDb>.

⁴⁷ NASEM Report, *supra* note 14, at 8.

⁴⁸ See, e.g., NASEM Report, *supra* note 14, at 7–8 (“Lesbian and bisexual women have higher odds of risk factors for cardiovascular disease, such as hypertension and diabetes, and they also have more risk factors for breast cancer than heterosexual women.”); Susan D. Cochran et al., *Sexual Orientation Differences in Functional Limitations, Disability, and Mental Health Services Use: Results from the 2013–2014 National Health Interview Survey*, 85 *J. Consulting & Clinical Psychol.* 1111 (2017); Susan D. Cochran et al., *Sexual Orientation and All-Cause Mortality Among US Adults Aged 18 to 59 Years, 2001–2011*, 106 *Am. J. Pub. Health* 918 (2016); Mike C. Parent et al., *Stress and Substance Use Among Sexual and Gender Minority Individuals Across the Lifespan*, 10 *Neurobiology Stress* 1 (2019) (noting significant health disparities in substance use among LGBT people, including associations between workplace

orientation creates and perpetuates these disparities, in part through societal neglect of the health needs of LGB people and resulting health disparities.⁴⁹ Indeed, sexual orientation-related minority stress—measured as experiences of past negative treatment and expectations of future negative treatment because of sexual orientation—is correlated with suicidal ideation and self-harm.⁵⁰

C. The stigma faced by members of other classes CADA protects also results in harmful health outcomes.

Members of the other classes CADA protects from discrimination also experience negative psychological and physiological health outcomes due to the heightened stress that results from stigma.

harassment and greater alcohol consumption and alcohol-related problems in sample of LGB women, and methamphetamine and crack/cocaine use as a means of coping with work stress in a sample of LGB men); *see also* Kathi N. Miner & Paula L. Costa, *Ambient Workplace Heterosexism: Implications for Sexual Minority and Heterosexual Employees*, 34 *Stress & Health* 563 (2018).

⁴⁹ Inst. of Med., *Report: The Health of Lesbian, Gay, Bisexual, and Transgender People* 13, 295 (2011).

⁵⁰ Jennifer J. Muehlenkamp et al., *Nonsuicidal Self-Injury in Sexual Minority College Students: A Test of Theoretical Integration*, 9 *Child & Adolescent Psychiatry & Mental Health* 1 (2015); *see also* John E. Pachankis et al., *A Minority Stress-Emotion Regulation Model of Sexual Compulsivity Among Highly Sexually Active Gay and Bisexual Men*, 34 *Health Psychol.* 829 (2015); David M. Frost & Adam W. Fingerhut, *Daily Exposure to Negative Campaign Messages Decreases Same-Sex Couples' Psychological and Relational Well-Being*, 19 *Grp. Processes & Intergroup Rel.* 477 (2016).

1. *Disability*

People who experience stigma based on physical or intellectual disability are significantly more likely to report clinical depression, poor health, and psychological distress than those who do not experience such discrimination.⁵¹ And people with intellectual disabilities may avoid seeking adequate health care to sidestep the stigma associated with being disabled.⁵²

2. *Race*

Racial discrimination leads to increased stress, which contributes to negative psychological and physiological health outcomes.⁵³ The psychological and physiological

⁵¹ See, e.g., Namkung & Carr, *supra* note 27.

⁵² Nicole Ditchman et al., *Stigma and Intellectual Disability: Potential Application of Mental Illness Research*, 58 *Rehab. Psychol.* 206 (2013).

⁵³ David R. Williams, *Stress and the Mental Health of Populations of Color: Advancing Our Understanding of Race-Related Stressors*, 59 *J. Health & Soc. Behav.* 466, 468, 477 (2018) (“[D]iscrimination is positively associated with measures of depression and anxiety symptoms and psychological distress[,] as well as[,] with defined psychiatric disorders,” but noting studies showing that Black Americans “tend to have worse health than whites on virtually every indicator of physical health, but ... lower rates of stress-related mental health outcomes, such as major depression, than whites[.]”); Maximus Berger & Zoltán Sarnyai, “*More Than Skin Deep*”: *Stress Neurobiology and Mental Health Consequences of Racial Discrimination*, 18 *Stress* 1, 2–3 (2015); David R. Williams et al., *Racial Differences in Physical and Mental Health: Socio-Economic Status, Stress and Discrimination*, 2 *J. Health Psychol.* 335 (1997); see also Ronald L. Simons et al., *Discrimination, Segregation, and Chronic Inflammation: Testing the Weathering Explanation for the Poor Health of Black Americans*, 54 *Dev.*

effects of racial trauma include hypervigilance to threat, flashbacks, nightmares, avoidance, suspiciousness, headaches, and heart palpitations—similar to the symptoms of post-traumatic stress disorder.⁵⁴ Neuropsychological research shows that these health effects can result from chronic exposure to race-based stress.⁵⁵ Racism increases the risk for the common cold, hypertension, cardiovascular disease, breast cancer, depression, and anxiety, and is associated with higher mortality rates.⁵⁶

Racism adversely affects the health of racial minorities in several ways—through interpersonal experiences of racial discrimination; through cultural or internalized racism, which occurs at the societal and individual levels; and through structural racism, which refers to the policies and procedures that reduce access to housing, education, employment, and other desirable

Psychol. 1993 (2018).

⁵⁴ Comas-Díaz et al., *supra* note 29, at 2.

⁵⁵ Berger & Sarnyai, *supra* note 53, at 5 (“Chronic exposure to stressors such as racial discrimination contributes to this maladaptation and leads to changes mediated by glucocorticoids and pro-inflammatory cytokines. These changes are known to have long-term effects on the brain”).

⁵⁶ Bryana H. French et al., *Toward a Psychological Framework of Radical Healing in Communities of Color*, 48 *Counseling Psychologist* 14, 17 (2020); *see also* Elizabeth Brondolo et al., *Racism and Mental Health: Examining the Link Between Racism and Depression From a Social Cognitive Perspective*, in *The Cost of Racism for People of Color: Contextualizing Experiences of Discrimination* 109, 123 (A.N. Alvarez et al. eds., 2016) (explaining that “[r]acism has substantial effects on social cognitive processes that contribute to the development of depression”).

societal resources⁵⁷—each extensively documented in the scientific literature.⁵⁸

3. Religion

Stigma experienced because of religious identity is also associated with negative health outcomes. For instance, stigma and discrimination against Muslim Americans has been found to increase stress and lead to negative health outcomes, both because of the individual psychological impact of such stress, and because of the effect of discrimination on access to health services.⁵⁹

⁵⁷ See, e.g., French et al., *supra* note 56, at 17; see also APA, *APA Resolution on Advancing Health Equity in Psychology* (Oct. 2021); see also APA, *Apology to People of Color for APA's Role in Promoting, Perpetuating, and Failing to Challenge Racism, Racial Discrimination, and Human Hierarchy in U.S.* (Oct. 2021).

⁵⁸ David R. Williams & Selina A. Mohammed, *Racism and Health I: Pathways and Scientific Evidence*, 57 *Am. Behav. Scientist* 1152 (2013); accord Naomi Priest & David R. Williams, *Racial Discrimination and Racial Disparities in Health*, in *The Oxford Handbook of Stigma, Discrimination, and Health* 163, 163–64 (B. Major et al. eds., 2018).

⁵⁹ See Goleen Samari, *Islamophobia and Public Health in the United States*, 106 *Am. J. Pub. Health* 1920 (2016); Merranda Marie McLaughlin et al., *A Mixed-Methods Approach to Psychological Help-Seeking in Muslims: Islamophobia, Self-Stigma, and Therapeutic Preferences*, 90 *J. Consulting & Clinical Psychol.* 568 (2022) (finding, in a representative sample of 350 Muslims living in the United States, that perceived Islamophobia was associated with greater psychological distress and indirectly related to negative help-seeking attitudes via greater self-stigma).

Perceived religious discrimination is also predictive of greater depressive symptoms.⁶⁰

4. *Sex*

Sexism is a pervasive stressor in women's lives and drives poor mental and physical health outcomes. Many women report encountering sexism at least once or twice a week, and experiences of sexism have been linked to psychological distress and alcohol use among heterosexual women.⁶¹ Sexism also accounts for differences in anxiety and depression between cisgender men and cisgender women.⁶² Sexual objectification, in particular, increases women's vulnerability to eating

⁶⁰ Zhen Hadassah Cheng et al., *The Development, Validation, and Clinical Implications of the Microaggressions Against Religious Individuals Scale (MARIS)*, 11 *Psychol. of Religion & Spirituality* 327 (2019) (analyzing sample of 383 Christian, Buddhist, Muslim, Hindu, Jewish, and "other religion" people); *see also, e.g.*, Alyssa E. Rippey & Elana Newman, *Perceived Religious Discrimination and Its Relationship to Anxiety and Paranoia Among Muslim Americans*, 1 *J. Muslim Mental Health* 5 (2006) (finding, in a sample of 152 Muslim Americans, that greater perceptions of discriminatory and hostile environments were associated with higher levels of sub-clinical paranoia); *see also* Kimberly Rios et al., *Negative Stereotypes Cause Christians to Underperform in and Disidentify with Science*, 6 *Soc. Psychol. & Personality Sci.* 959 (2015) (explaining that when stereotypes about Christians being less competent in science than other groups become salient, Christians become less interested in and identified with science and underperform on science-relevant tasks compared to non-Christians).

⁶¹ Scheer et al., *supra* note 34, at 223.

⁶² Scheer et al., *supra* note 34, at 223; *see also* Schmitt et al., *supra* note 45 (identifying, in an analysis of 23 studies, a relationship between perceived sex discrimination and poorer well-being).

disorders, sexual dysfunction, anxiety, and depression, and leads to negative emotions such as anxiety and shame, which can increase women’s risk of mental illness over time.⁶³

Women also face stigma and associated adverse health outcomes. For instance, sexism in state-level policies—as reflected in gender gaps in pay, employment, poverty, political representation, and policy protections—is associated with women facing greater barriers to accessing and affording necessary health care than men.⁶⁴ And sexism is associated with greater physical health problems among women than men.⁶⁵

5. *Gender*

Stigma is a fundamental cause of adverse health outcomes for transgender people.⁶⁶ Transgender people, like LGB people, exhibit worse psychological and

⁶³ Peter Koval et al., *How Does It Feel to Be Treated Like an Object? Direct and Indirect Effects of Exposure to Sexual Objectification on Women’s Emotions in Daily Life*, 116 *J. Personality & Soc. Psychol.: Attitudes & Social Cognition* 885, 886 (2019).

⁶⁴ Kristen Schorpp Rapp et al., *State-Level Sexism and Gender Disparities in Health Care Access and Quality in the United States*, 63 *J. Health & Soc. Behav.* 2 (2022); see also Susan E. Short & Meghan Zacher, *Women’s Health: Population Patterns and Social Determinants*, 48 *Ann. Rev. Sociology* 277 (2022) (reviewing research on sex-based social inequalities, stigma, and discrimination contributing to the diminished health outcomes of women).

⁶⁵ Patricia Homan, *Structural Sexism and Health in the United States: A New Perspective on Health Inequality and the Gender System*, 84 *Am. Soc. Rev.* 486 (2019).

⁶⁶ NASEM Report, *supra* note 14, at 7.

physical health⁶⁷ as a result of the minority stress that follows from stigmatization,⁶⁸ including psychological distress,⁶⁹ illness, substance use,⁷⁰ and even physical

⁶⁷ NASEM Report, *supra* note 14, at 8 (“Transgender adults may have more elevated rates of cardiovascular disease and myocardial infarction than their cisgender counterparts.”); *id.* (“Mental health disparities in [sexual and gender diverse] populations include heightened anxiety and depressive symptoms and greater suicidality among LGBT people in comparison with heterosexual or cisgender individuals.”).

⁶⁸ Bockting et al., *supra* note 37 (extending minority stress model to analysis of effects of stigma on mental health of transgender and gender-diverse populations); Robert D. Davies & Barbara Kessel, *Gender Minority Stress, Depression, and Anxiety in a Transgender High School Student*, 174 *Am. J. Psychiatry* 1151, 1152 (2017) (“The gender minority stress model posits that transgender individuals experience four distinct external stress types: victimization, rejection, discrimination, and identity nonaffirmation.”); NASEM Report, *supra* note 14, at 8 (“The [health] disparities affecting [sexual and gender diverse] populations are driven by experiences of minority stress, which include both structural and interpersonal stigma, prejudice, discrimination, violence, and trauma.”).

⁶⁹ Hughto et al., *supra* note 36; *see also* G. Tyler Lefevor et al., *Health Disparities Between Genderqueer, Transgender, and Cisgender Individuals: An Extension of Minority Stress Theory*, 66 *J. Counseling & Psychol.* 385 (2019); *see also* Diamond & Alley, *supra* note 46; Flentje et al., *Minority Stress, Structural Stigma, and Physical Health Among Sexual and Gender Minority Individuals*, *supra* note 43.

⁷⁰ *See, e.g.*, Parent et al., *supra* note 48 (noting health disparities in substance use among LGBT people, including associations between job loss and smoking and substance use in national sample of transgender people); NASEM Report, *supra* note 14, at 8 (“Substance use and behavioral health disparities include greater use of tobacco, alcohol, and other drugs among LGBT people than among heterosexual or cisgender individuals.”).

violence.⁷¹ One study of transgender people found that experiences of societal stigma, including employment discrimination, was associated with psychological distress, clinical depression, anxiety, and physical illness.⁷² Another study found that transgender people who face more everyday and major discrimination, including discrimination in the workplace, are more likely to engage in health-harming behaviors (*i.e.*, attempted suicide, drug/alcohol abuse, and smoking); and transgender people who identify as gender nonconforming experience heightened exposure to discrimination and health-harming behaviors, compared to transgender people who do not identify as gender nonconforming.⁷³

The stigma experienced by transgender people can result in diminished healthcare access, which can also contribute to negative health outcomes. For instance, stigma against transgender people can lead to a lack of medical providers trained to provide competent

⁷¹ Cardona et al., *supra* note 46; NASEM Report, *supra* note 14, at 8 (“LGBT people and people with intersex traits are at risk of violence from family members, peers, intimate partners, and strangers as a result of their sexual orientation, gender identity, or intersex status.”); Kristen Clements-Nolle et al., *Attempted Suicide Among Transgender Persons: The Influence of Gender-Based Discrimination and Victimization*, 51 J. Homosexuality 53 (2006); Emilia L. Lombardi et al., *Gender Violence: Transgender Experiences with Violence and Discrimination*, 42 J. Homosexuality 89 (2002).

⁷² Bockting et al., *supra* note 37.

⁷³ Lisa R. Miller & Eric A. Grollman, *The Social Costs of Gender Nonconformity for Transgender Adults: Implications for Discrimination and Health*, 30 Soc. F. 809 (2015).

healthcare to transgender patients, forcing transgender people to travel long distances to receive care, pay out of pocket for providers, or postpone care altogether.⁷⁴

6. *Nationality*

Stigma on the basis of nationality has been found to be linked to health disparities between immigrants and non-immigrants and worsened health outcomes for immigrants.⁷⁵ Anti-immigrant stigma operates on various levels—individual (*e.g.*, perceived deportation threat), interpersonal (*e.g.*, anti-immigrant discrimination), and structural (*e.g.*, immigration policy)—each of which contributes to health disparities.⁷⁶ Perceived and actual discrimination because of characteristics tied to nationality and immigration status—such as ethnicity and language—is also associated with negative health outcomes.⁷⁷

⁷⁴ Hughto et al., *supra* note 36; *see also* Reisner et al., *supra* note 37, at 507.

⁷⁵ *See, e.g.*, Brian Karl Finch et al., *The Role of Discrimination and Acculturative Stress in the Physical Health of Mexican-Origin Adults*, 23 *Hispanic J. Behav. Sci.* 399 (2001) (finding, in a sample of 3,012 Mexican-origin adults, that discrimination is related to poor physical health, and depression is a major mechanism through which discrimination may affect physical health).

⁷⁶ Morey, *supra* note 38, at 461.

⁷⁷ *See, e.g.*, May Ling Halim et al., *Perceived Ethnic and Language-Based Discrimination and Latina Immigrant Women's Health*, *supra* note 39 (finding perceived ethnic and language-based discrimination among Latina immigrant women is associated with higher psychological distress and lower self-reported health); Halim et al., *Cross-Generational Effects of Discrimination Among*

III. Research Shows Anti-Discrimination Laws Can Mitigate Stigma and Its Associated Adverse Health Consequences.

CADA is an effort to counteract the stigma experienced by the members of the classes it protects, including but not limited to LGB people, and to mitigate the negative health outcomes associated with that stigma.

Scientific evidence shows that anti-discrimination laws like CADA can decrease stigma and associated adverse health consequences. For instance, the existence of anti-discrimination laws is associated with decreased discrimination against LGB people, even though such laws have not eliminated all such discrimination.⁷⁸ These laws are also associated with better psychological and physiological health outcomes for members of protected classes.⁷⁹

Immigrant Mothers, *supra* note 39 (finding that among recent Latina immigrant mothers, experiences of ethnic and language-based discrimination are associated with mothers' and children's health outcomes).

⁷⁸ Laura G. Barron & Michelle Hebl, *The Force of Law: The Effects of Sexual Orientation Antidiscrimination Legislation on Interpersonal Discrimination in Employment*, 19 *Psychol., Pub. Pol'y, & Law* 191 (2013); *see also, e.g.*, Rebecca L. Pearl et al., *Can Legislation Prohibiting Weight Discrimination Improve Psychological Well-Being? A Preliminary Investigation*, 17 *Analyses Soc. Issues & Pub. Pol'y* 84 (2017).

⁷⁹ *See, e.g.*, Mark L. Hatzenbuehler et al., *State-Level Policies and Psychiatric Morbidity in Lesbian, Gay, and Bisexual Populations*, 99 *Am. J. Pub. Health* 2275, 2277–78 (2009) (finding that LGB people

Conversely, the absence of such legal protections is associated with experiences of stigma and negative health consequences.⁸⁰ For instance, researchers observed a significant increase in psychiatric disorders in LGB people living in states that banned same-sex marriage in 2004 and 2005 relative to LGB and heterosexual people living in states that did not enact such bans during that time.⁸¹

Thus, by barring discrimination in public accommodations, CADA curtails the stigma experienced by LGB people and members of other disfavored groups, and therefore acts to curb the harmful stress that follows and its associated adverse health consequences.

living in states without legal protections for LGB people were significantly more likely to have psychiatric disorders compared with LGB people in states with such policies); *see also* NASEM Report, *supra* note 14, at 5 (“The legal status of romantic unions is associated with the health and well-being of [sexual and gender diverse] populations.”).

⁸⁰ *See, e.g.*, Hatzenbuehler et al., *State-Level Policies and Psychiatric Morbidity in Lesbian, Gay, and Bisexual Populations*, *supra* note 79, at 2277–78.

⁸¹ Mark L. Hatzenbuehler et al., *The Impact of Institutional Discrimination on Psychiatric Disorders in Lesbian, Gay, and Bisexual Populations: A Prospective Study*, 100 *Am. J. Pub. Health* 452 (2010) (documenting a 37% increase in mood disorders, a 42% increase in alcohol-use disorders, and a 248% percent increase in generalized anxiety disorders); Sharon S. Rostosky et al., *Marriage Amendments and Psychological Distress in Lesbian, Gay and Bisexual (LGB) Adults*, 56 *J. Counseling Psychol.* 56 (2009) (finding that LGB people living in states that passed anti-gay marriage amendments in 2006 had higher psychological distress than LGB people in states without such amendments on the ballot).

CONCLUSION

For the foregoing reasons, the judgment below should be affirmed.

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