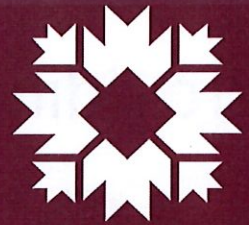


RIGHTS STUFF

A Publication of The City Of Bloomington Human Rights Commission



CITY OF BLOOMINGTON

BHRC Staff

*Barbara E. McKinney,
Director*

Commission Members

Ryne Shadday, Chair

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Secretary*

Valeri Haughton-Motley

Byron Bangert

Pamela Jackson

Tonda Radewan

Mayor

John Hamilton

Corporation Counsel

Beth Cate

BHRC

PO BOX 100

Bloomington, IN 47402

812.349.3429

human.rights@bloomington.in.gov

City of Bloomington Earns Eighth Perfect Score on Human Rights Campaign Index

The Human Rights Campaign (HRC) Foundation (hrc.org) announced that Bloomington has again been awarded a perfect score on the annual Municipal Equality Index (MEI). Now in its eleventh year, the index of 506 cities nationwide uses 49 criteria to evaluate how inclusive a city's laws, policies, and services are of the LGBTQ+ people who live and work there. Bloomington was one of 120 cities in the U.S. to earn a perfect score this year.

The 2022 MEI rating marks the eighth consecutive year that Bloomington has been recognized with a perfect score. Bloomington is the only city in Indiana to achieve a 100% score and is one of four cities in Indiana to be considered an "MEI All-Star," earning a high score in a state that lacks non-discrimination laws that expressly include LGBTQ+ people. Bloomington's scorecard is available online at <https://bton.in/NhsF8> and the full 2022 Municipal Equality Index Report is available at <https://bton.in/1k8B8>.

"Eight consecutive years of recognition for our community's

support and protection of our LGBTQ+ residents and visitors is something to celebrate," said Mayor John Hamilton. "Beyond celebration, however, we can stand on this firm foundation and do more because we know that there is work to be done and this index does not reflect the experiences of everyone in Bloomington. I call on the State Legislature to pass non-discrimination legislation that protects our Hoosier LGBTQ+ community. Bloomington's Human Rights Commission is always prepared to assist those who feel they have experienced discrimination."

The MEI score is determined by a city's record in five categories: non-discrimination laws, the municipality as an employer, municipal services and programs, law enforcement, and leadership on LGBTQ+ equality. Bloomington's scorecard highlights a variety of City initiatives on supporting, engaging, and protecting LGBTQ+ individuals, including the following:

CONTINUED on PAGE 4

Providing Accommodations for Depositions

MS is a 27-year-old man with autism. He required special education services when he was in high school.

In 2013, he and his parents sued his school district, alleging that his high school stopped providing him with accommodations, such as teacher-provider study guides and extra time for exams, during his junior year. They say the school's actions caused his academic progress to suffer.

The litigation has continued since 2013. In 2020, the school district noticed MS for a deposition. He failed to appear, and over the next nine months, he failed to appear at four more scheduled depositions. He and his parents requested accommodations at the depositions, such as being deposed in writing or receiving written questions in advance of the deposition.

They said such accommodations were required under the Americans with Disabilities Act (ADA) or the Rehabilitation Act.

The magistrate ruled that neither law applied to a deposition. However, he did grant several accommodations, imposing time limits and allowing MS to bring his emotional support dog. The family appealed that decision to the judge, who agreed with the magistrate. He told them they had two choices:

they could drop their lawsuit or produce MS for deposition.

He then missed three more scheduled depositions. He appealed to the judge again, and again lost. The magistrate ordered him to appear at the next scheduled deposition or risk having the case dismissed with prejudice. He did not appear as scheduled, still arguing that the failure to grant his requested accommodations violated the ADA. The judge dismissed the case with prejudice, and the family appealed to the court of appeals. They lost, again.

The court of appeals said that the district court had ample justification to dismiss the case with prejudice. The court said it was not reaching the merits of the plaintiffs' argument that the ADA required his requested accommodations.

Rather, it was saying MS was not entitled to disobey a court order "merely because he and his parents disagreed with it." He was obliged to obey the order, attend the deposition and challenge the ruling at the appropriate time.

The case is Stanek v. St. Charles Community Unit School District No. 303, 2022 WL 445155 (7th Cir. 2022). If you have questions about the ADA, please contact the BHRC.

Nominations Sought for 2023 Human Rights Award

The Bloomington Human Rights Commission is again seeking nominations for its annual human rights award. The award recognizes individuals or groups who have made specific and significant contributions to improving civil rights, human relations or civility in our community.

The deadline for nominations is Friday, February 3, 2023 at 5 p.m.

The HRC especially welcomes nominations that demonstrate success in ensuring rights to equal access to housing, employment or education; in ensuring equal access to community life for people with disabilities; and of people or organizations who have done exemplary work and advocacy in increasing civility in our community.

"The work of creating greater equity and social justice is ongoing, and requires all hands on deck," said Mayor John Hamilton. "With this award, Bloomington's Human Rights Commission lifts up the individuals and organizations in our community who are working in the trenches every day to protect human and civil rights, combat prejudice, champion democracy and make Bloomington a more just and equitable place."

Nomination forms for the Human Rights Award are available at the website or from the Bloomington Human Rights Commission, at human.rights@bloomington.in.gov or (812)349-3429.

Complainants Must Prove They Were Similarly Situated

CR is a Black man who worked for the Illinois State Police. In 2016, his partner was Boram Kim, who is not Black. The two of them were assigned to inspect businesses with video gaming machines at ten locations to monitor for illegal gambling. They each inspected five locations on the afternoon of January 24, 2016 and submitted inspection reports.

Kim's supervisor was skeptical of Kim's report. Both Kim and CR were asked to submit a memorandum describing what time they arrived at each location, to whom they spoke, what they were looking for and what they did.

CR's memorandum said he arrived at his first location at noon, the second one at 1, the third at 3, the fourth at 3 and the fifth at 4. But security footage showed he was at the final location from 2:03 to 2:12 p.m., and that he passed through a tollbooth at 2:38.

Kim's memorandum said he arrived at his locations at 11:45 a.m., 1 p.m., 1:20 p.m., 1:40 p.m. and 2:30 p.m. It said he attended a wake at 3:45 while he was still on duty.

Both were charged with violating rules of conduct. Kim was charged with violating the rule that said that officers will perform their duties in a manner that maintains the highest standard of efficiency while carrying out the

objectives of the department. He received a three-day suspension.

CR was charged with knowingly making false statements in department records and with not truthfully answering questions directed to him in the scope of his employment. He was suspended for 60 days. He sued, alleging race discrimination in employment, and lost.

He argued that he was punished more harshly than Kim for "doing exactly the same thing," as they were both initially accused of providing false information on their time cards.

The court said the two men engaged in different misconduct and were punished for violating different rules. CR misrepresented the timing of his inspections in his initial report and in his follow-up memorandum, as well as throughout the investigation. He was charged with three counts related to making false statements in connection with his employment.

Kim was more forthcoming in his memorandum. His misconduct was deemed less serious under the rules. The court said that CR had not shown he and Kim were similarly situated, so he could not establish that the different levels of punishment were based on race.

CR also argued that the department discriminated against him on the basis of his race when it downgraded his ratings in his performance evaluation,



compared to the previous year. The court said that the downgrade was irrelevant because he was still certified for promotion and thus he had not suffered an adverse employment action. And he presented no evidence that the downgrade was based on race.

The case is Reives v. Illinois State Police, 2022 WL 966871 (7th Cir. 2022). If you have questions about fair employment practices, please contact the BHRC.

Meet the Bloomington Human Rights Commission



From left, commissioners Erin McAlister, Valeri Haughton-Motley, Ryne Shadday and Pam Jackson, BHRC Director Barbara E. McKinney, BHRC assistant Nicole DeCriscio Bowe, and commissioners Carolyn Calloway-Thomas, Byron Bangert and Tonda Radewan pose for a photo following the October BHRC meeting.

PERFECT SCORE | FROM PAGE 1

- City code includes laws prohibiting discrimination in employment, housing, and public accommodations
- City contractors are required to comply with a non-discrimination ordinance
- Human Rights Commission enforces non-discrimination ordinance
- City provides employees with domestic partner benefits
- City's healthcare benefits are transgender-inclusive
- Police department employs an LGBTQ+ liaison
- Police department reported 2019 hate crimes statistics to the FBI
- City maintains single-occupancy all-gender facilities
- City provides services to those living with HIV or AIDS

"We know that equity and inclusion issues continue

to present challenges to our community and beyond," said Human Rights Commission Director and Assistant City Attorney Barbara McKinney. "But implementing good policies and procedures can help communities meet those challenges, and the MEI score shows Bloomington is doing exactly that."

Bloomington Human Rights Ordinance

The Bloomington Human Rights Ordinance prohibits discrimination in employment, housing, public accommodations, and education on the basis of race, sex, religion, disability, color, national origin, ancestry, gender identity, sexual orientation, veteran status, or housing status. It also prohibits discrimination in housing on the basis of familial status. It has jurisdiction over entities within the Bloomington City Limits, with the exception of Indiana University.