



NATIONAL  
NATIVE AMERICAN  
BAR ASSOCIATION

**RESOLUTION OF THE NATIONAL NATIVE AMERICAN BAR ASSOCIATION**

**RESOLUTION #2023-02**

**TITLE: Urging Representation of and Visibility for Two-Spirit People in the LGBTQ2+ Legal Community**

**WHEREAS**, the National Native American Bar Association (“NNABA”) was founded in 1973 and serves as the national association for Native American attorneys, judges, law professors and law students, and NNABA promotes and addresses social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians;

**WHEREAS**, the government and people of the United States have subjected Native Americans to exclusionary policies and language since the founding of the country, including during passage of the Fourteenth Amendment to the United States Constitution, during which Congress expressly excluded “Indians not taxed” from citizenship along with an ability to participate in the political life of the United States;

**WHEREAS**, the United States carried out a policy of assimilation for Native Americans, including through policies breaking up and facilitating the sale or theft of Native American lands to largely white Americans, and through a series of government-run boarding or day schools which attempted to strip Native American children of their culture and language in an attempt to, as the former head of the Carlisle Indian School said, “kill the Indian, [and] save the man;”

**WHEREAS**, people with a minority sexual orientation or gender identity (“SOGI”), which includes intersex people, also faced exclusionary policies and language, including through: criminalization of same-sex sexual activity; laws prohibiting clothing or gender presentation deemed inconsistent with Anglo-American constructs of two genders that match sex assigned at birth, and the inconsistent and punitive application of public indecency laws to suppress social and political gatherings of SOGI minorities;

**WHEREAS**, youth within the SOGI community also faced a series of cultural attitudes, legal policies, and professional attempts to force assimilation, often through the discredited and unethical practice of “conversion therapy,” which attempts to change a person’s sexual orientation, gender identity, and/or gender expression and by the failure of the educational system to recognize and protect SOGI minority children and youth;

**WHEREAS**, individuals within the SOGI community often identify themselves within one or more of the following categories: lesbian, gay, bisexual, transgender, queer, intersex, asexual or

another form of SOGI minority identity, resulting in a common community acronym of “LGBTQ+;”

**WHEREAS**, while it is impossible to accurately generalize across the diversity of 574 federally recognized Native nations and Native Hawaiians, many Native nations accepted, and in some cases revered, LGBTQ+ individuals, and LGBTQ+ minority individuals were often placed in special and important roles relating to their respective nation’s cultural, social, and spiritual traditions; and

**WHEREAS**, tribal nations have historically used a variety of particular names to refer to LGBTQ+ individuals, but the most prominent name known today, and which was used by a variety of tribal nations, was a term which could roughly be translated as “Two-Spirit,” reflecting the notion that these individuals display elements of different gender identities; and

**WHEREAS**, Two-Spirit children and youth were particularly subject to condemnation, oppression, and emotional or physical violence by the agents of the United States’ assimilation policies, particularly in the context of government-run schools and the criminalization of LGBTQ+ identity and actions by the states that tribal nations unwillingly found themselves a part of; and

**WHEREAS**, as a result of these assimilationist policies, tribal nations’ acknowledgement and acceptance of Two-Spirit individuals has often changed or diminished; and

**WHEREAS**, similar to Native American women generally, studies of Two-Spirit individuals demonstrate that they are subjected to high rates of physical abuse and violence; and

**WHEREAS**, LGBTQ+ Native Americans have, in recent years, embraced the term “Two-Spirit” as a pan-Indian term used to reflect the unique experience of being both Native American and LGBTQ+, and have sought to use the term “LGBT2” or “LGBTQ2+” to promote representation and visibility for Two-Spirit people both inside and outside the Native American community; and

**WHEREAS**, NNABA explained the invisibility and lack of inclusion of Native American lawyers in diversity, equity, and inclusion efforts in the legal profession in its Resolution 2020-03, “Urging Representation of Native People in Studies of Diversity, Equity, and Inclusion Efforts at All Levels of the Legal Profession;” and

**WHEREAS**, Two-Spirit attorneys and others in the legal profession experience the same erasure and lack of inclusion as other Native American people in the legal profession, with even entities dedicated to the promotion of LGBTQ2+ or SOGI minority attorneys and legal professionals failing to recognize and promote the unique intersectional identity of Two-Spirit people; and

**WHEREAS**, the lack of visibility for Two-Spirit attorneys and legal professionals creates a perception among Two-Spirit-identified individuals that there is no space for Two-Spirit people in the legal profession; and

**WHEREAS**, improved efforts to actively promote the visibility and inclusion of Two-Spirit law students, attorneys, and other legal professionals, both in the Native American and LGBTQ2+

legal communities, are needed in order to improve representation of Two-Spirit people in the legal profession more broadly.

**NOW THEREFORE BE IT RESOLVED**, that the National Native American Bar Association calls upon its own membership, as well as organizations dedicated to the promotion of LGBTQ2+ attorneys like the National LGBT Bar Association and the American Bar Association’s SOGI Commission, to take specific steps to include Two-Spirit law students, attorneys, and other legal professionals in their organizations’ work and programming.

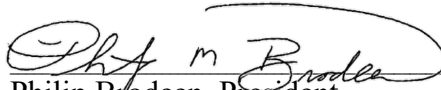
**BE IT FURTHER RESOLVED**, that the National Native American Bar Association calls upon all organizations studying the legal profession or promoting diversity, equity, and inclusion in the legal profession to engage in specific efforts to ensure Two-Spirit individuals are visible and included in all studies of and discussions of diversity, equity, and inclusion related to the legal profession.

**BE IT FURTHER RESOLVED**, that the National Native American Bar Association calls upon the legal community broadly to normalize the inclusion of Two-Spirit people in references to the LGBTQ2+ community, by including the number “2” in acronyms referring to the community.

**BE IT FINALLY RESOLVED**, that NNABA supports this resolution as policy until it is withdrawn or modified by subsequent resolution.

#### **CERTIFICATION**

The foregoing resolution 2023-02 was adopted by the Board of the National Native American Bar Association on March 6, 2023, via electronic written consent.

  
Philip Brodeen, President