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Documenting Discrimination on the Basis of Sexual Orientation and Gender Identity in State Employment

Title

Congressional Record of Employment Discrimination Against LGBT Public Employees. 1994-2007.

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Publication Date

2009-09-23



Chapter 9: Congressional Record of Employment Discrimination Against LGBT Public Employees. 1994-2007.

In considering versions of ENDA from 1994 to 2007, Congress has specifically considered unconstitutional discrimination by state, local, and federal employers against LGBT people. Direct victims of such discrimination have testified at Congressional hearings; legal scholars have presented specific cases as well as scholarship on the history and continuing legacy of such discrimination; social scientists have presented survey data and other studies documenting such discrimination; LGBT rights organizations have submitted reports and expert testimony documenting such discrimination; and members of Congress have shared specific examples and spoken more generally about such discrimination. In total, over 67 specific examples of employment discrimination against LGBT people by public employers have been presented to Congress in prior years, including discrimination involving 13 state employees, 14 teachers, 12 public safety officers, 2 other local employees, and 26 federal employees. Table 4-A briefly summarizes some of the testimony and other references to such discrimination that Congress has considered over the past fifteen years.

Table 4-A. Documentation of Employment Discrimination Against LGBT People by State, Local, and Federal Employers Presented to Congress When Considering ENDA, 1994-2008

Year	Type	Citation	Public Employment Discrimination Against LGBT People Considered
1994	Statement by Senator Ted Kennedy	140 Cong. Rec. S. 7581, S. 7581, Senator Ted Kennedy to the Committee on Labor and Human Resources re: S. 2238 <i>Congressional Record, Senate – Statements on Introduced Bills and Joint Resolutions</i> , Thurs., June 23, 1994(Legislative day of Tues., June 7, 1994) 103rd Congress, 2nd Session	“This bill is for the postal worker in Michigan who was verbally harassed and then beaten unconscious by his coworkers for being gay. He reported continued harassment to his superiors-but they did nothing. In a subsequent law suit, the court rejected his claim because discrimination based on sexual orientation is not covered under Federal law.” (describing the story of Ernest Dillon, a postal employee in Detroit, Michigan, who was harassed and assaulted at work and eventually forced to resign.)

<p>1994</p>	<p>Prepared Testimony by Legal Scholar on Reported Cases of Discrimination by Public Employers Before Senate Committee on Labor and Human Resources</p>	<p>S. Hrg. 103-703, pp. 94-105 Prepared Testimony of Chai R. Feldblum, Appendix I <i>Hearing before the Senate Committee on Labor and Human Resources re: S. 2238: Employment Non-Discrimination Act of 1994</i> July 29, 1994 103rd Congress, 2nd Session</p>	<p><i>Aumiller.</i> State university refused to re-hire a faculty member due to his involvement in a series of articles about gay life. <i>Aumiller v. Univ. of Delaware</i>, 434 F. Supp. 1273 (D. Del. 1977).</p> <p><i>Bush.</i> A gay inmate was fired from his job in the state prison kitchen. <i>Bush v. Potter</i>, 875 F.2d 862 (6th Cir. 1989).</p> <p><i>Kelley.</i> A gay inmate in state prison was removed from his job in the prison bakery. <i>Kelley v. Vaughn</i>, 760 F. Supp. 161 (W.D. Mo. 1991).</p> <p><i>Johnson.</i> A gay inmate in state prison was denied a prison job. <i>Johnson v. Knable</i>, No. 90-7388, 1991 U.S. App. LEXIS 12125 (4th Cir. May 28, 1991).</p> <p><i>Dawson.</i> State law enforcement division forced an employee to resign due to homosexual conduct. <i>Dawson v. State Law Enforcement Div.</i>, No. 3:91-1403-17, 1992 U.S. Dist. LEXIS 8862 (D.S.C. April 3, 1992).</p> <p><i>Wolotsky.</i> Male social worker (at a non-profit under contract with state) terminated without warning when male patient alleged they had sex. No “state action” found. <i>Wolotsky v. Huhn</i>, 960 F.2d 1331 (6th Cir. 1992).</p> <p><i>Shahar.</i> State attorney general withdrew job offer to a law school graduate after learning of her same-sex wedding. <i>Shahar v. Bowers</i>, 836 F. Supp. 859 (N.D. Ga. 1993).</p> <p><i>Burton.</i> A teacher who was discovered to be a “practicing lesbian” was fired pursuant to Oregon statute permitting dismissal for “immorality.” <i>Burton v. Cascade Sch. Dist. Union High Sch. No. 5</i>, 512 F.2d 850 (9th Cir.), cert. denied, 423 U.S. 839 (1975).</p> <p><i>Brass.</i> Pursuant to department policy, New York City Department of Social Services refused to hire two gay male applicants for caseworker positions. <i>Brass v. Hoberman</i>, 295 F. Supp. 358 (S.D. N.Y. 1968).</p> <p><i>Jantz.</i> Heterosexual part-time teacher not hired for the available full-time position because principal believed he was gay. <i>Jantz v. Muci</i>, 759 F. Supp. 1543 (D. Kan. 1991).</p> <p><i>Rowland.</i> Bisexual high school guidance counselor suspended and school district refused to</p>
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			<p>creates a substantial risk that such conduct will come to the attention of school children or school employers.” The court struck down the “conduct” clause as overbroad and violative of the First Amendment but upheld the “activity” clause with minimal analysis. <i>National Gay Task Force v. Bd. of Educ.</i>, 729 F.2d 1270 (10th Cir. 1984), <i>aff’d</i>, 470 U.S. 904 (1984) (per curiam).</p> <p><i>Newman</i>. Police officer initiated an action against the police department and the police chief for discrimination based on sexual orientation. The trial court dismissed the police officer's complaint, and he sought review. The appellate court held that the trial court erred in dismissing the common law claims. <i>Newman v. District of Columbia</i>, 518 A.2d 698 (D.C. 1986).</p> <p><i>Norton</i>. Budget analyst for NASA was fired after he was arrested for a “traffic violation” by the “Morals Squad” division of the police department in which he was accused of making a homosexual advance to another man. Plaintiff denied the allegations. The District of Columbia Court of Appeals held that government agencies were required to demonstrate a “rational basis” for discharge, and that homosexuality <i>per se</i> was not a rational basis; the agency must demonstrate that the individual’s homosexuality could rationally affect the efficiency of the agency operations. <i>Norton v. Macy</i>, 417 F.2d 1161 (D.C. Cir. 1969).</p> <p><i>Padula</i>. Highly qualified female candidate was denied a position with the FBI on the basis of her admitted homosexuality. Despite the fact that the FBI had not itself proffered a rational nexus for its decision, the Court of Appeals held that a rational nexus existed because “[t]he FBI . . . is a national law enforcement agency whose agents must be able to work in all the states in the nation. To have agents who engage in conduct criminalized in roughly one-half of the states would undermine the law enforcement credibility of the Bureau.” <i>Padula v. Webster</i>, 822 F.2d 97 (D.C. Cir. 1987).</p> <p><i>Richards</i>. A career employee with the United States Information Agency resigned under the duress of false charges of same-sex sexual activity. During the month prior to the termination, Richards’s supervisor ordered that he undergo an investigation. Richards and his co-workers, who provided favorable reviews of Richards, cooperated fully. When the investigation revealed no information not already contained in Richards’s record, the investigators concocted a declaration alleging that Richards had engaged in same-sex sexual activities. Thereafter, the investigators confronted Richards with the declaration and submitted him to a five hour</p>
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			<p>homosexual act is immoral, indecent, lewd, and obscene. . . . If activities of this kind are allowed to be practiced in a government department, it is inevitable that the efficiency of the service will in time be adversely affected.” <i>Schlegel v. United States</i>, 416 F.2d 1372 (Ct. Cl. 1969), <i>cert. denied</i>, 397 U.S. 1039 (1970).</p> <p><i>Scott</i>. Plaintiff applied for civil service employment and performed well on the requisite exams; however, the Civil Service Commission refused to hire Plaintiff on the basis of allegations that Plaintiff had previously engaged in homosexual conduct (Plaintiff refused to comment as to his sexual orientation on the basis that it was irrelevant), stating that Plaintiff’s conduct was “immoral.” The lower court upheld the Commission’s actions, but the District of Columbia Court of Appeals reversed, holding that the Commission’s decision was “arbitrary” because it failed to specify the conduct it found “immoral” and state why that conduct related to occupational competence or fitness; the court thus remanded the case to the district court for judgment to be entered in favor of Plaintiff. However, Plaintiff was forced to renew his suit after the Commission again refused to hire him, ostensibly because Plaintiff refused to answer questions regarding his sexuality. The District of Columbia Court of Appeals again held in favor of Plaintiff, finding that the Commission’s rationale for refusing to hire Plaintiff was pretext. <i>Scott v. Macy</i>, 349 F.2d 182 (D.C. Cir. 1965) (“<i>Scott I</i>”), <i>appeal after remand</i>, 402 F.2d 644 (D.C. Cir. 1968) (“<i>Scott II</i>”).</p> <p><i>Swift</i>. Swift brought suit against the United States after he was denied access to the White House to perform his duties as a stenographer. Swift alleged that the White House violated his rights to privacy, association, due process, and equal protection. The court denied the White House’s motions to dismiss Swift’s privacy and equal protection claims. “Government may not discriminate against homosexuals for the sake of discrimination, or for no reason at all.” Swift recorded and transcribed the President’s public speeches and press conferences at the White House for nearly two years. Shortly before Swift was terminated, a White House agent approached his supervisor and asked if, to her knowledge, Swift was gay. The supervisor confirmed that he was. Immediately thereafter, the White House notified Swift’s employer that he was determined to be a security risk and would no longer be permitted to access the complex. Swift was then terminated by the private company under contract with the White House. <i>Swift v. United States</i>, 649 F. Supp. 596 (D.D.C. 1986).</p> <p><i>Todd</i>. Deputy for the sheriff’s department was fired after the sheriff’s department discovered she was a lesbian due to two of her former lovers (also employees of the sheriff’s department)</p>
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			<p>telling the sheriff's department about Plaintiff's sexual orientation. The court granted the sheriff's department's motion for summary judgment, assuming for its analysis that Plaintiff was terminated based on her sexual orientation, and holding with minimal analysis that "[i]n the context of both military and law enforcement personnel, dismissal for homosexuality has been found rationally related to a permissible end." <i>Todd v. Navarro</i>, 698 F. Supp. 871 (S.D. Fla. 1988).</p> <p><i>Williams</i>. Housekeeping aide at a veterans' hospital was interviewed by an investigator of the Civil Service Commission approximately one year after he began his employment. The investigator asked Williams several questions about his sexual orientation, which Williams refused to answer. Williams was terminated by the Regional Director three weeks after the interview on grounds of "immoral" conduct. The Board of Appeals and Review of the Commission upheld the decision because Williams had previously admitted that he was gay and his sexual orientation ". . . would adversely reflect against the Federal government, and that the adverse reflection would, in turn, harm the efficiency of the Federal service." The court affirmed, stating, "It cannot be gainsaid that 'homosexuality' as 'measured by common understanding and practices' is considered to be 'immoral.'" <i>Williams v. Hampton</i>, 7 Empl. Prac Dec. P9226 (N.D. Ill. 1974).</p>
1994	<p>Data on Administrative Complaints against State Government Employer in Prepared Testimony of Legal Scholar Before the Senate</p>	<p>S. Hrg. 103-703, pp. 106-111 Prepared Testimony of Chai R. Feldblum, Appendix II <i>Hearing before the Senate Committee on Labor and Human Resources</i> <i>re: S. 2238: Employment</i></p>	<p>Complaints filed in six out of eight of the states with sexual orientation anti-discrimination laws as of 1994. Under Vermont anti-discrimination statute, 7 state employment discrimination complaints filed in 1993-1994.</p>

	Committee on Labor and Human Resources	<i>Non-Discrimination Act of 1994</i> July 29, 1994 103rd Congress, 2nd Session	
1994	Cases Presented in Monograph, "Documented Cases of Job Discrimination Based on Sexual Orientation," by Human Rights Campaign in Prepared Testimony by Legal Scholar Before Senate Committee on Labor and Human Resources	S. Hrg. 103-703, pp. 112-115 Prepared Testimony of Chai R. Feldblum, Appendix III <i>Hearing before the Senate Committee on Labor and Human Resources re: S. 2238: Employment Non-Discrimination Act of 1994</i> July 29, 1994 103rd Congress, 2nd Session	<i>Jantz.</i> Heterosexual part-time teacher not hired for the available full-time position because principal believed he was gay. <i>Harbeck.</i> State university assistant professor was promised a promotion, but instead was removed from her post when a student began threatening her life and threatening to kill all homosexuals. <i>Shaw.</i> Social worker at a state-funded center for children was fired for bringing pictures of her same-sex partner to work. <i>Corliss.</i> Librarian at state prison was harassed at work due to her sexual orientation and fired soon after she was hired.
1996	Statement by Senator Ted Kennedy	142 Cong. Rec. S 9986 Senator Ted Kennedy <i>Congressional Record, Senate – Employment Nondiscrimination Act of 1996</i> Fri., Sept. 6, 1996 104th Congress, 2nd Session	"In the 1950s, the Senate investigated government employees' sexuality and President Eisenhower recommended dismissal of all homosexuals."

<p>1996</p>	<p>Testimony on History of Public Employment Discrimination Against LGBT People by Legal Scholar Before House Committee on Small Business, Subcommittee on Government Programs</p>	<p>H.R. Hrg. 104-87, pp. 128–153 Prepared Testimony of Chai R. Feldblum, Associate Prof. of Law, Georgetown U. Law Center <i>Hearing before the House Committee on Small Business, Subcommittee on Government Programs re: H.R. 1863: The Employment Non-Discrimination Act</i> Wed., July 17, 1996 104th Congress, 2nd Session</p>	<p>“Discrimination against gay men and lesbians by the government intensified in the 1950s, setting a norm for private actors. In 1950, the Senate directed a Senate Investigation Subcommittee ‘to make an investigation into the employment by the government of homosexuals and other sex perverts.’ The subcommittee concluded that homosexuals were unfit for employment because they ‘lack the emotional stability of normal persons’ and recommended that all homosexuals be dismissed from government employment. In 1953, President Eisenhower issued Executive Order 10,450 calling for the dismissal of all government employees who were “sex perverts”.From 1947 through mid-1950, <i>1,700 individuals</i> were denied employment by the federal government because of their alleged homosexuality.” (Emphasis added; footnotes and citations omitted).</p>
<p>1996</p>	<p>Testimony Before House Committee on Small Business: Subcommittee on Government Programs</p>	<p>H.R. Hrg. 104-87, pp. 79–82 Prepared Testimony of Ernest Dillon <i>Hearing before the House Committee on Small Business, Subcommittee on Government Programs re: H.R. 1863: The Employment Non-Discrimination Act</i> Wed., July 17, 1996 104th Congress, 2nd Session <i>Referenced at 142 Cong. Rec. D 755, D 760</i> <i>Reprinted in Federal News</i></p>	<p>Ernest Dillon, a postal employee in Detroit, Michigan, was harassed and assaulted at work and eventually forced to resign.</p>

		Service, <i>In the News</i> , Wed., July 17, 1996	
1996	Testimony Before House Committee on Small Business: Subcommittee on Government Programs	H.R. Hrg. 104-87, pp. 163–165 Prepared Testimony of Michael Proto <i>Hearing before the House Committee on Small Business, Subcommittee on Government Programs re: H.R. 1863: The Employment Non-Discrimination Act</i> Wed., July 17, 1996 104th Congress, 2nd Session <i>Referenced at 142 Cong. Rec. D 755, D 760</i> <i>Reprinted in Federal News Service, In the News, Wed., July 17, 1996</i>	Michael Proto, Aspiring Police Officer, North Haven, CT. Applicant to police department was denied employment, despite his exceptional test results. His background investigation was said to reveal issues regarding his “integrity” because the applicant was gay.
1996	Testimony Before House Committee on Small Business: Subcommittee on Government Programs	H.R. Hrg. 104-87, pp. 157–160 Prepared Testimony of Nan Miguel <i>Hearing before the House Committee on Small Business, Subcommittee on Government Programs re: H.R. 1863: The Employment Non-</i>	Nan Miguel, Radiologist, Pullman, WA. Nan Miguel was hired as the manager of the radiology department at a hospital in Pullman, WA, where he single-handedly executed many of the department’s responsibilities. He hired an additional technologist against the wishes of his medical director, who suspected she was a lesbian. Mr. Miguel did his best to support the technologist, but after increasingly confrontational behavior from their co-workers, both were fired from their positions.

		<p><i>Discrimination Act</i> Wed., July 17, 1996 104th Congress, 2nd Session</p> <p><i>Referenced at</i> 142 Cong. Rec. D 755, D 760 <i>Reprinted in</i> Federal News Service, <i>In the News</i>, Wed., July 17, 1996</p>	
1996	Prepared Testimony by Legal Scholar on Reported Cases of Discrimination by Public Employers Before House Committee on Small Business, Subcommittee on Government Programs	<p>H.R. Hrg. 104-87, pp. 181-228 Prepared Testimony of Chai R. Feldblum, Appendix I <i>Hearing before the House Committee on Small Business, Subcommittee on Government Programs re: H.R. 1863: The Employment Non-Discrimination Act</i> Wed., Jul. 17, 1996 104th Congress, 2nd Session</p>	<p><i>Aumiller</i>. State University refused to re-hire a faculty member due to his involvement in a series of articles about gay life. <i>Aumiller v. Univ. of Delaware</i>, 434 F. Supp. 1273 (D. Del. 1977).</p> <p><i>Givens</i>. State prisoner alleged discrimination by the warden based on sexual orientation with respect to job assignments. <i>Givens v. Shuler</i>, No. 87-2856, 1987 U.S. Dist. LEXIS J4935 (E.D. Pa. June 8, 1987).</p> <p><i>Bush</i>. A gay inmate was fired from his job in the state prison kitchen. <i>Bush v. Potter</i>, 875 F.2d 862 (6th Cir. 1989).</p> <p><i>Kelley</i>. A gay inmate in state prison was removed from his job in the prison bakery. <i>Kelley v. Vaughn</i>, 760 F. Supp. 161 (W.D. Mo. 1991).</p> <p><i>Johnson</i>. A gay inmate in state prison was denied a prison job. <i>Johnson v. Knable</i>, No. 90-7388, 1991 U.S. App. LEXIS 12125 (4th Cir. May 28, 1991).</p> <p><i>Dawson</i>. State law enforcement division forced an employee to resign due to homosexual conduct. <i>Dawson v. State Law Enforcement Div.</i>, No. 3:91-1403-17, 1992 U.S. Dist. LEXIS 8862 (D.S.C. April 3, 1992).</p> <p><i>Wolotsky</i>. Male social worker (at a non-profit under contract with state) terminated without warning when male patient alleged they had sex. No “state action” found. <i>Wolotsky v. Huhn</i>,</p>

		<p>960 F.2d 1331 (6th Cir. 1992).</p> <p><i>Shahar</i>. State attorney general withdrew job offer to a law school graduate after learning of her same-sex wedding. <i>Shahar v. Bowers</i>, 836 F. Supp. 859 (N.D. Ga. 1993).</p> <p><i>Burton</i>. A teacher who was discovered to be a “practicing lesbian” was fired pursuant to Oregon statute permitting dismissal for “immorality.” <i>Burton v. Cascade Sch. Dist. Union High Sch. No. 5</i>, 512 F.2d 850 (9th Cir.), <i>cert. denied</i>, 423 U.S. 839 (1975).</p> <p><i>Brass</i>. Pursuant to department policy, New York City Department of Social Services refused to hire two gay male applicants for caseworker positions. <i>Brass v. Hoberman</i>, 295 F. Supp. 358 (S.D. N.Y. 1968).</p> <p><i>Jantz</i>. Heterosexual part-time teacher not hired for the available full-time position because principal believed he was gay. <i>Jantz v. Muci</i>, 759 F. Supp. 1543 (D. Kan. 1991).</p> <p><i>Rowland</i>. Bisexual high school guidance counselor suspended and school district refused to renew her contract. <i>Rowland v. Mad River Local Sch. Dist.</i>, 730 F.2d 444 (6th Cir. 1984), <i>cert. denied</i>, 470 U.S. 1009 (1985).</p> <p><i>Childers</i>. Police department refused to hire gay applicant. <i>Childers v. Dallas Police Dept.</i>, 513 F. Supp. 134 (N.D. Tex. 1981), <i>aff’d</i>, 669 F.2d 732 (5th Cir. 1982).</p> <p><i>Walls</i>. City fired an employee who refused to answer security check questions regarding her sexuality. <i>Walls v. City of Petersburg</i>, 895 F.2d 188 (4th Cir. 1990).</p> <p><i>Endsley</i>. Woman working as an unpaid deputy sheriff was forced to resign due to rumors that she was a lesbian. <i>Endsley v. Naes</i>, 673 F. Supp. 1032 (D. Kan. 1987).</p> <p><i>Gish</i>. School board ordered teacher involved in gay activist associations to undergo a psychiatric examination. <i>Gish v. Bd. of Educ. of Paramus</i>, 366 A.2d 1337 (N.J. Super. Ct. App. Div. 1976), <i>cert. denied</i>, 377 A.2d 658 (N.J.), <i>cert. denied</i>, 434 U.S. 879 (1987).</p> <p><i>Acanfora</i>. A school principal transferred a teacher from his post to a non-teaching position when the principal discovered the teacher was gay. <i>Acanfora v. Bd. of Educ.</i>, 491 F.2d 498 (4th</p>
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		<p>Cir.), <i>cert. denied</i>, 419 U.S. 836 (1974).</p> <p><i>City of Dallas</i>. Police department refused to hire a woman who disclosed, in response to interview questions, that she was a lesbian. <i>City of Dallas v. England</i>, 846 S.W.2d 957 (Tex. App. 1993).</p> <p><i>Merrick</i>. School board regulations permitted discrimination on the basis of sexual orientation (declaratory action sought by lesbian employee). <i>Merrick v. Bd. of Higher Educ.</i>, 841 P.2d 646 (Or. App. 1992).</p> <p><i>Gaylord</i>. Teacher fired shortly after answering a school official's questions regarding his sexual orientation. <i>Gaylord v. Tacoma Sch. Dist. No. 10.</i>, 559 P.2d 1340 (Wash.), <i>cert. denied</i>, 434 U.S. 879 (1977).</p> <p><i>Delahoussaye</i>. City refused to re-employ laid off police officer discovered engaged in homosexual conduct. <i>Delahoussaye v. City of New Iberia</i>, 937 F.2d 144 (5th Cir. 1991).</p> <p><i>Ashton</i>. FBI forced gay clerical employee to resign. <i>Ashton v. Civiletti</i>, 613 F.2d 923 (D.C. Cir. 1979).</p> <p><i>Dillon</i>. Postal worker forced to quit due to ongoing harassment. <i>Dillon v. Frank</i>, No. 90-2290, 1992 U.S. App. LEXIS 766 (6th Cir. Jan. 15, 1992).</p> <p><i>Singer</i>. EEOC employee dismissed due to his sexual orientation and involvement in gay community activities. <i>Singer v. United States Civ. Serv. Comm'n</i>, 530 F.2d 247 (9th Cir. 1976), <i>vacated</i>, 429 U.S. 1034 (1977).</p> <p><i>Society for Individual Rights</i>. Department of Agriculture discharged gay clerical employee (who had been previously discharged from the Army for being gay). <i>Society for Individual Rights, Inc. v. Hampton</i>, 528 F.2d 905 (9th Cir. 1975).</p> <p><i>Baker</i>. National Bureau of Standards dismissed a clerical employee for refusing to answer questions regarding his sexual orientation. <i>Baker v. Hampton</i>, 6 Empl. Prac. Dec. P9043 (D.D.C. 1973).</p>
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			adverse reflection would, in turn, harm the efficiency of the Federal service.” The court affirmed, stating, “It cannot be gainsaid that ‘homosexuality’ as ‘measured by common understanding and practices’ is considered to be ‘immoral.’” <i>Williams v. Hampton</i> , 7 Empl. Prac Dec. P9226 (N.D. Ill. 1974).
1996	Cases Presented in Monograph, “Documented Cases of Job Discrimination Based on Sexual Orientation,” by Human Rights Campaign in Prepared Testimony by Legal Scholar Before House Committee on Small Business, Subcommittee on Government	H.R. Hrg. 104-87, pp. 246-274 Prepared Testimony of Chai R. Feldblum, Appendix III <i>Hearing before the House Committee on Small Business, Subcommittee on Government Programs re: H.R. 1863: The Employment Non-Discrimination Act</i> Wed., July 17, 1996 104th Congress, 2nd Session	<i>Jantz.</i> Heterosexual part-time teacher not hired for the available full-time position because principal believed he was gay. <i>Harbeck.</i> State university assistant professor was promised a promotion, but instead was removed from her post when a student began threatening her life and threatening to kill all homosexuals. <i>Shaw.</i> Social worker at a state-funded center for children was fired for bringing pictures of her same-sex partner to work. <i>Corliss.</i> Librarian at state prison was harassed at work due to her sexual orientation and fired soon after she was hired. <i>Romero.</i> Police department employee removed from her post as a school public safety instructor to patrol duty because she was a lesbian. <i>Dillon.</i> Gay post office employee subjected to harassment from his co-workers based on his sexual orientation.

1996	Statement by Senator Ted Kennedy	142 Cong. Rec. S 10712, S 10712 Senator Byron Dorgan <i>Congressional Record, Senate – Employment Non-Discrimination Act</i> Tues., Sept. 17, 1996 104th Congress 2nd Session	Discussing the story of Ernest Dillon, a postal employee in Detroit, Michigan, who was harassed and assaulted at work and eventually forced to resign.
1997	Testimony on History of Public Employment Discrimination Against LGBT People by Legal Scholar Before House Committee on Small Business, Subcommittee on Government Programs	S. Hrg. 105-279, pp. 7-9 Statement of David N. Horowitz, Esq. <i>Hearing before the Senate Committee on Labor and Human Resources re: S.869: The Employment Non-Discrimination Act of 1997</i> Thurs., Oct. 23, 1997 105th Congress, 1st Session <i>Reprinted in Federal News Service, In the News, Thurs., Oct. 23, 1997</i>	David Horowitz, Attorney, Mesa, AZ, “David Horowitz encountered this bigotry when he applied to be an Assistant City Attorney in Mesa, Arizona. He had graduated near the top of his law school class at the University of Arizona. While employed by a private law firm, he applied for a position with the City Attorney. He was not offered a position, but he was told he was the second choice. Six months later, he was called and interviewed for another job opening. The City Attorney asked David for references and told him that, ‘I only ask for references when I’m ready to make someone an offer.’ In the interview, David told the City Attorney that he was openly gay, and the tone of the interview suddenly changed. David was told that his sexual orientation posed a problem, and three weeks later he received a rejection letter.”

1997	Statement of Senator Paul Wellstone	<p>S. Hrg. 105-279, p. 17 Senator Paul Wellstone <i>Hearing before the Senate Committee on Labor and Human Resources re: S.869: The Employment Non-Discrimination Act of 1997</i> Thurs., Oct. 23, 1997 105th Congress, 1st Session</p> <p><i>Reprinted in Federal News Service, In the News, Thurs., Oct. 23, 1997</i></p>	<p>Gwendolyn Gunther, Police Officer, Minneapolis, MN. “Gwendolyn Gunther (sp) is a police officer with the Minneapolis Police Department. Quote: ‘I seem to represent everything that the old boys hate in this department -- female, black and gay. The thing that makes it worst of all is I’m a good cop. When I first came to this shift, my sergeant was like, ‘When I saw your name on my list, I tried everything I could to get you the hell out of my precinct. I didn’t want you here. I’ve heard all those bad things about you. You were a trouble maker and you brought the morale down. I’m glad I got you because there’s not one person on this shift that won’t work with you.’”</p>
1997	Prepared Testimony by Legal Scholar on Reported Cases of Discrimination by Public Employers Before Senate Committee on Labor and Human Resources	<p>S. Hrg. 105-271, pp. 55-77 Prepared Testimony of Chai R. Feldblum, Appendix I <i>Hearing before the Senate Committee on Labor and Human Resources re: S. 869: Employment Non-Discrimination Act of 1997</i> Oct. 23, 1997 105th Congress, 1st Session</p>	<p><i>Aumiller</i>. State University refused to re-hire a faculty member due to his involvement in a series of articles about gay life. <i>Aumiller v. Univ. of Delaware</i>, 434 F. Supp. 1273 (D. Del. 1977).</p> <p><i>Wolotsky</i>. Male social worker (at a non-profit under contract with state) terminated without warning when male patient alleged they had sex. No “state action” found. <i>Wolotsky v. Huhn</i>, 960 F.2d 1331 (6th Cir. 1992).</p> <p><i>Shahar</i>. State attorney general withdrew job offer to a law school graduate after learning of her same-sex wedding. <i>Shahar v. Bowers</i>, 836 F. Supp. 859 (N.D. Ga. 1993).</p> <p><i>Burton</i>. A teacher who was discovered to be a “practicing lesbian” was fired pursuant to Oregon statute permitting dismissal for “immorality.” <i>Burton v. Cascade Sch. Dist. Union High Sch. No. 5</i>, 512 F.2d 850 (9th Cir.), <i>cert. denied</i>, 423 U.S. 839 (1975).</p> <p><i>Brass</i>. Pursuant to department policy, New York City Department of Social Services refused to hire two gay male applicants for caseworker positions. <i>Brass v. Hoberman</i>, 295 F. Supp. 358</p>

		<p>(S.D. N.Y. 1968).</p> <p><i>Jantz.</i> Heterosexual part-time teacher not hired for the available full-time position because principal believed he was gay. <i>Jantz v. Muci</i>, 759 F. Supp. 1543 (D. Kan. 1991).</p> <p><i>Rowland.</i> Bisexual high school guidance counselor suspended and school district refused to renew her contract. <i>Rowland v. Mad River Local Sch. Dist.</i>, 730 F.2d 444 (6th Cir. 1984), <i>cert. denied</i>, 470 U.S. 1009 (1985).</p> <p><i>Childers.</i> Police department refused to hire gay applicant. <i>Childers v. Dallas Police Dept.</i>, 513 F. Supp. 134 (N.D. Tex. 1981), <i>aff'd</i>, 669 F.2d 732 (5th Cir. 1982).</p> <p><i>Walls.</i> City fired an employee who refused to answer security check questions regarding her sexuality. <i>Walls v. City of Petersburg</i>, 895 F.2d 188 (4th Cir. 1990).</p> <p><i>Endsley.</i> Woman working as an unpaid deputy sheriff was forced to resign due to rumors that she was a lesbian. <i>Endsley v. Naes</i>, 673 F. Supp. 1032 (D. Kan. 1987).</p> <p><i>Gish.</i> School board ordered teacher involved in gay activist associations to undergo a psychiatric examination. <i>Gish v. Bd. of Educ. of Paramus</i>, 366 A.2d 1337 (N.J. Super. Ct. App. Div. 1976), <i>cert. denied</i>, 377 A.2d 658 (N.J.), <i>cert. denied</i>, 434 U.S. 879 (1987).</p> <p><i>Acanfora.</i> A school principal transferred a teacher from his post to a non-teaching position when the principal discovered the teacher was gay. <i>Acanfora v. Bd. of Educ.</i>, 491 F.2d 498 (4th Cir.), <i>cert. denied</i>, 419 U.S. 836 (1974).</p> <p><i>City of Dallas.</i> Police department refused to hire a woman who disclosed, in response to interview questions, that she was a lesbian. <i>City of Dallas v. England</i>, 846 S.W.2d 957 (Tex. App. 1993).</p> <p><i>Merrick.</i> School board regulations permitted discrimination on the basis of sexual orientation (declaratory action sought by lesbian employee). <i>Merrick v. Bd. of Higher Educ.</i>, 841 P.2d 646 (Or. App. 1992).</p> <p><i>Gaylord.</i> Teacher fired shortly after answering a school official's questions regarding his</p>
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<p>1997</p>	<p>Testimony on History of Public Employment Discrimination Against LGBT People by Legal Scholar Before House Committee on Small Business, Subcommittee on Government Programs</p>	<p>S. Hrg. 105-271, pp. 24-54 Prepared Testimony of Chai R. Feldblum, Associate Prof. of Law, Georgetown U. Law Center <i>Hearing before the Senate Committee on Labor and Human Resources re: S. 869: Employment Non-Discrimination Act of 1997</i> Oct. 23, 1997 105th Congress, 1st Session</p>	<p>“Discrimination against gay men and lesbians by the government intensified in the 1950s, setting a norm for private actors. In 1950, the Senate directed a Senate Investigation Subcommittee ‘to make an investigation into the employment by the government of homosexuals and other sex perverts.’ The subcommittee concluded that homosexuals were unfit for employment because they ‘lack the emotional stability of normal persons’ and recommended that all homosexuals be dismissed from government employment. In 1953, President Eisenhower issued Executive Order 10,450 calling for the dismissal of all government employees who were ‘sex perverts’. From 1947 through mid-1950, 1,700 individuals were denied employment by the federal government because of their alleged homosexuality.” (Emphasis added; footnotes and citations omitted).</p>
<p>1997</p>	<p>Cases Presented in Monograph, “Documented Cases of Job Discrimination Based on Sexual Orientation,” by Human Rights Campaign in Prepared Testimony by Legal Scholar Before Senate Committee on Labor and Human Resources</p>	<p>S. Hrg. 105-271, pp. 82-90 Prepared Testimony of Chai R. Feldblum, Appendix III <i>Hearing before the Senate Committee on Labor and Human Resources re: S. 869: Employment Non-Discrimination Act of 1997</i> Oct. 23, 1997 105th Congress, 1st Session</p>	<p><i>Jantz.</i> Heterosexual part-time teacher not hired for the available full-time position because principal believed he was gay.</p> <p><i>Harbeck.</i> State university assistant professor was promised a promotion, but instead was removed from her post when a student began threatening her life and threatening to kill all homosexuals.</p> <p><i>Shaw.</i> Social worker at a state-funded center for children was fired for bringing pictures of her same-sex partner to work.</p> <p><i>Corliss.</i> Librarian at state prison was harassed at work due to her sexual orientation and fired soon after she was hired.</p> <p><i>Romero.</i> Police department employee removed from her post as a school public safety instructor to patrol duty because she was a lesbian.</p> <p><i>Dillon.</i> Gay post office employee subjected to harassment from his co-workers based on his</p>

			sexual orientation. <i>Proto.</i> Applicant to police department passed over for employment despite his exceptional test scores, after his sexual orientation was disclosed during a polygraph test.
1998	Statement of Representative Jackson-Lee	144 Cong. Rec. H 7255, H 7259 Representative Jackson-Lee <i>Congressional Record, House – Departments of Commerce, Justice, and State, and Judiciary, and Related Agencies Appropriations Act, 1999</i> Wed., Aug. 5, 1998 105th Congress, 2nd Session * This statement was made in support of President Clinton’s Executive Order 13087, not ENDA	“In my own home State of Texas, two former employees of the Texas governor's office filed a lawsuit in Austin alleging that their former supervisor used hostile language to describe victims assistance language and attitudes towards gays and lesbians by the division's executive director. This type of discrimination should shock all of us, but unfortunately, gays and lesbians are still openly discriminated against in our society.”
1999	Statement of Senator Ted Kennedy	145 Cong. Rec. S 7591, S7599 Senator Ted Kennedy <i>Congressional Record,</i>	David Horowitz, Attorney, Mesa, AZ, “David Horowitz encountered this bigotry when he applied to be an Assistant City Attorney in Mesa, Arizona. He had graduated near the top of his law school class at the University of Arizona. While employed by a private law firm, he applied for a position with the City Attorney. He was not offered a position, but he was told he

		<p><i>Senate – Statements on Introduced Bills and Joint Resolutions</i> Thurs., June 24, 1999 106th Congress, 1st Session</p>	<p>was the second choice. Six months later, he was called and interviewed for another job opening. The City Attorney asked David for references and told him that, ‘I only ask for references when I’m ready to make someone an offer.’ In the interview, David told the City Attorney that he was openly gay, and the tone of the interview suddenly changed. David was told that his sexual orientation posed a problem, and three weeks later he received a rejection letter.”</p>
2002	<p>Testimony of Legal Expert Before Senate Health, Education, Labor and Pensions Committee</p>	<p>Testimony of Matt Coles, ACLU Senate Health, Education, Labor and Pensions Committee <i>Hearing on the Employment Nondiscrimination Act</i> Feb. 27, 2002 <i>Reprinted in</i> FDCH Political Transcripts</p>	<p>Matt Coles, Director of the ACLU’s Lesbian and Gay Rights and AIDS Projects, testified that the ACLU has handled a number of sexual orientation cases including those in the public and private sectors. For example, the ACLU handled a case on behalf of an inspirational teacher in Alabama who thought he had kept his family life completely private until the day that he lost his job.</p>
2003	<p>Statement of Senator Ted Kennedy</p>	<p>149 Cong. Rec. S 12377, S12382 Senator Ted Kennedy <i>Congressional Record, Senate – Statements on Introduced Bills and Joint Resolutions</i> Thurs., Oct. 2, 2003 108th Congress, 1st Session</p>	<p>Steve Morrison, Firefighter, Oregon, “Steve Morrison, a firefighter in Oregon. His co-workers saw him on the local news protesting an anti-gay initiative, and incorrectly assumed he was gay himself. He began to lose workplace responsibilities and was the victim of harassment, including hate mail. After a long administrative proceeding, the trumped-up charges were removed from his record, and he was transferred to another fire station.”</p>

2003	Statement of Senator Joe Lieberman	149 Cong. Rec. S 12377, S12383 Senator Joe Lieberman <i>Congressional Record, Senate – Statements on Introduced Bills and Joint Resolutions</i> Thurs., Oct. 2, 2003 108th Congress, 1st Session	A collection of one national survey and 20 city and State surveys, which included both public and private workers, found that as many as 44% of gay, lesbian and bisexual workers faced job discrimination in the workplace at some time in their careers. Other studies have reported even greater discrimination, as much as 68% of gay men and lesbians reporting employment discrimination.
2007	Testimony Before the House Education and Labor Subcommittee on Health, Employment, Labor, and Pensions	Statement of Michael Carney <i>Hearing before the House Education and Labor Committee, Subcommittee on Health, Employment, Labor, and Pensions re: H.R. 2015, The Employment Non-Discrimination Act of 2007</i> Sept. 5, 2007 110th Congress, 1st Session <i>Reprinted in Congressional Quarterly Transcriptions, Sept. 5, 2007</i> and Congressional Quarterly Testimony, Sept. 5, 2007	Michael Carney, Police Officer, Springfield, MA. Mr. Carney testified that he realized soon after graduating the police academy that, because he was gay, his safety as a police officer and his future as a public servant were seriously jeopardized. He worried that if he were killed in the line of duty there would be no one to tell his partner what happened to him and his partner would learn about it on the news. Mr. Carney testified that he is a good cop, but he lost two-and-a-half years of employment fighting to get his job back because he is gay. Because Massachusetts has an antidiscrimination law that protects against sexual orientation discrimination he was eventually able to get his job back but if he lived in a state without such protections or if he were a federal employee living in Massachusetts, he would not have been able to get his job back.
2007	Statement of Representative	153 Cong. Rec. E 2365, E 2365-66	Rep. Sheila Jackson of Texas discussed some studies showing discrimination against both public and private LGBT employees, including a 2005 survey finding a quarter of LGB people

	Sheila Jackson	Representative Sheila Jackson <i>Congressional Record, House – Providing for Consideration of H.R. 3685; Employment Non-Discrimination Act of 2007</i> Nov. 7, 2007 110th Congress, 1st Session	disagreed with the statement that most employers in their area would hire openly GLB people; a 2007 study found that 16% of GL people reported being fired or denied a job because of their sexual orientation; a recent study by the Journal of Applied Psychology found that 37% of GL workers across the US have faced discrimination based on sexual orientation, 10% indicated they had been physically harassed, 2% had been verbally harassed; and nearly 20% said they had resigned from a job or been fired because of discrimination based on sexual orientation.
2007	Statement of Representative George Miller	153 Cong. Rec. H 13228. H 13228 Representative George Miller <i>Congressional Record, House – Employment Non-Discrimination Act of 2007</i> Nov. 7, 2007 110th Congress, 1st Session	Michael Carney, Police Officer, Springfield, MA. Mr. Carney testified that he realized soon after graduating the police academy that, because he was gay, his safety as a police officer and his future as a public servant were seriously jeopardized. He worried that if he were killed in the line of duty there would be no one to tell his partner what happened to him and his partner would learn about it on the news. Mr. Carney testified that he is a good cop, but he lost two-and-a-half years of employment fighting to get his job back because he is gay. Because Massachusetts has an antidiscrimination law that protects against sexual orientation discrimination he was eventually able to get his job back but if he lived in a state without such protections or if he were a federal employee living in Massachusetts, he would not have been able to get his job back.